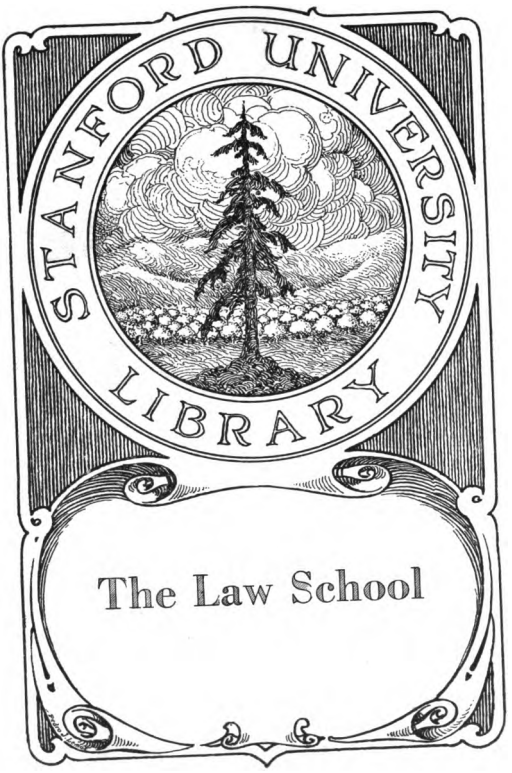

THIRTIETH ANNUAL REPORT

OF THE

INTERSTATE COMMERCE COMMISSION

DECEMBER 1, 1916

WASHINGTON
GOVERNMENT PRINTING OFFICE
1916

THE INTERSTATE COMMERCE COMMISSION.

BALTHASAR H. MEYER.
JUDSON C. CLEMENTS.
EDGAR E. CLARK.
JAMES S. HARLAN.
CHARLES C. McCHORD.
HENRY C. HALL.
WINTHROP M. DANIELS.

GEORGE B. McGINTY, *Secretary.*

CONTENTS.

APPENDIXES.

REPORT

OF THE

INTERSTATE COMMERCE COMMISSION.

WASHINGTON, D. C., *December 1, 1916.*

To the Senate and House of Representatives:

The Interstate Commerce Commission has the honor to submit herewith its thirtieth annual report to the Congress. The period covered by this report extends from November 1, 1915, to October 31, 1916, except as otherwise noted.

A statement of appropriations for and aggregate expenditures by the Commission for the fiscal year ended June 30, 1916, is embodied in Part I of this report, while the names of the employees and expenditures in detail are set forth in Part II.

FORMAL DOCKET.

The number of formal complaints filed during the year ended October 31, 1916, is 854, a decrease of 110 as compared with the number filed during the previous year. During the same period 671 cases have been decided and 135 have been dismissed by stipulations or otherwise, making a total of 806 cases disposed of as against 1,107 during the preceding year.

During the year the Commission has conducted 1,485 hearings and taken approximately 154,488 pages of testimony as compared with 1,543 hearings and 200,438 pages of testimony during the preceding year.

INVESTIGATION AND SUSPENSION DOCKET.

The number of proceedings instituted under this docket during the period is 223, an increase of 24 as compared with the previous year, and 206 such proceedings have been disposed of, a decrease of 4 as compared with the preceding year. In addition, many new schedules were added to pending investigations by supplementary orders of suspenson. During the same period we declined to exercise our authority to suspend in 312 cases, a decrease of 56 as compared with the previous year.

65001°—16——1

These figures represent the number of proceedings, but it should be stated that they do not represent the number of schedules suspended, nor do they indicate the number of requests for suspension, as in numerous instances a single proceeding covers from one to several hundred schedules and represents from one to several hundred individual requests for suspension. In some instances not included in this report protestants and respondents, after conference with the Commission or its representatives, have composed their differences by compromise rates or by the withdrawal on the part of the carriers of the offending schedules. Forty-four conferences consuming from one to eight days each have been held at the request of interested parties for the purpose of laying before the Commission their reasons for and against suspension of protested schedules.

DIVISION OF CORRESPONDENCE AND CLAIMS.

To the division of correspondence and claims is assigned the task of disposing of a large volume of business submitted to the Commission informally. Owing to the number, scope, and intricacy of the problems so presented, it has been deemed advisable in the interest of consistency and uniformity to centralize and standardize the handling of them. This division has been organized to accomplish that object. It is equipped to give consideration to inquiries of a general character, to informal complaints, and to claims submitted on the special docket. Many of these matters call for an interpretation of the law, and result in informal rulings, some of which are promulgated in our bulletin of conference rulings.

During the past year this division received and answered approximately 50,000 general inquiries. This does not, however, represent the total number of letters or inquiries received by the Commission during that period.

In previous annual reports the Commission has indicated that it aims to assist in obviating the necessity of formal complaints when there is any probability of bringing about an amicable adjustment by correspondence. Thousands of complaints are satisfactorily adjusted by this expeditious and economical method. During the past year 4,939 informal complaints were received, a decrease of 1,561, as compared with the preceding year. However, these figures are somewhat misleading unless qualified. The decrease is due in part to the adoption of a somewhat different method of handling informal complaints. Much of the correspondence received by the Commission has the characteristics of informal complaints, but not all of it is so classified. It has been found that many complaints can be disposed of by simply pointing out to the complainant his rights and obligations under the law.

Complaints arising upon the special docket are informal as to the pleadings, but the orders entered in such cases spring from the same authority and have the same force and effect as do orders entered in proceedings upon the formal docket. In special docket cases the carriers admit the justice of the matters and things alleged and are willing voluntarily to satisfy the complaint. The procedure and the purpose of this docket were fully explained in our twenty-third annual report. During the past year 6,040 special docket applications were filed by carriers, a decrease of 650 under the preceding year. Orders were entered in 4,370 cases, a decrease of 372 under the preceding year, and reparation has been awarded in amounts aggregating $432,493.39. There were, in addition, 1,833 cases dismissed or otherwise disposed of without an order.

INVESTIGATIONS.

The following investigations have been instituted on our own motion since October 31, 1915:

Concerning the rates, rules, regulations, and practices of carriers governing transportation of live stock, fresh meats, and packing-house products.

Concerning all interstate rates and charges on milk and cream. Report on rates between points in New England states appears in 40 I. C. C., 699.

Into the propriety of joint rates between the Norfolk & Western Railway Company and Big Sandy & Cumberland Railroad Company and the divisions of such rates.

Concerning the propriety of joint rates and divisions thereof between the Norfolk & Western Railway Company and the Marion & Rye Valley Railway Company and the Virginia Southern Railroad Company.

Concerning the reasonableness and propriety of rates, rules, regulations, and practices applicable to shipments of bituminous coal from mines in Pennsylvania, Maryland, West Virginia, Virginia, Kentucky, and Ohio to lower Lake Erie ports for transshipment over the Great Lakes.

Into the rates, practices, rules, and regulations governing the transportation of persons and property by common carriers subject to the jurisdiction of the Commission, wholly by railroad in Alaska and partly by railroad and partly by water between points in the United States and points in Alaska, and from points in Alaska, through Canada, to points in Alaska.

Concerning the rules, regulations, and practices of carriers in investigation and adjustment of claims for loss and damage of shipments of grain and grain products moving in bulk.

Into the propriety of joint rates between the St. Louis, Iron Mountain & Southern Railway Company and Gulf, Colorado & Santa Fe Railway Company and Oakdale & Gulf Railway Company, and the divisions of such rates.

Concerning the propriety of joint rates and divisions thereof between the St. Louis, Iron Mountain & Southern Railway Company and the New Orleans, Texas & Mexico Railway Company and the Kinder & Northwestern Railroad Company.

With a view to the entry of an order or orders fixing and determining fair and reasonable rates and compensation for the transportation of mail matter by railway common carriers in accordance with section 5 of the act approved July 28, 1916, making appropriations for the service of the Post Office Department for the year ending June 30, 1917.

The following investigations have also been instituted within the period named:

Responsive to resolution of the Committee on Interstate and Foreign Commerce of the House of Representatives concerning the character and extent of the service and the financial history, transactions, and practices of the Wabash Pittsburg Terminal Railway Company, its leased properties, and its predecessor corporation.

Responsive to Senate resolution of August 15, 1916, in regard to the Charleston & Norfolk Steamship Company.

The following investigations have been concluded since October 31, 1915:

On our motion in the matter of minimum transportation charges upon articles that are too long or too bulky to be loaded through the side doors of closed cars. Reports are found in 33 I. C. C., 378, and 38 I. C. C., 257.

Responsive to Senate resolution of May 16, 1914, requesting certain information as to common control or ownership between rail carriers and water carriers. April 11, 1916, report to the Senate of the United States. 39 I. C. C., 1.

On our own motion concerning the revenues of rail carriers in official classification territory. Reports appear in 31 I. C. C., 351, 32 I. C. C., 325, and 40 I. C. C., 509.

Initiated by us concerning allowances by the Chesapeake & Ohio and Virginian railway companies to the Glen Jean & Eastern and the White Oak railway companies. Reported in 41 I. C. C., 53.

On our motion concerning the transportation of cement, iron ore, iron and steel and their products in official classification territory. Discontinued by order of July 5, 1916.

Ordered by us concerning the kind of equipment used in transportation of passengers and property by railroads in Porto Rico, the

safety appliances installed thereon and what further appliances may or should be required. Reported in 37 I. C. C., 470.

On our motion concerning the rates on iron ore from Lake Erie ports to points in Ohio, West Virginia, and Pennsylvania. Reported in 41 I. C. C., 181.

Inquiry on our motion into the ownership and operation of the steamships *Great Northern* and *Northern Pacific*. Reported in 37 I. C. C., 260.

The following investigations are still open and reports therein have been made during the year ended October 31, 1916, as noted:

Instituted by us concerning allowances to short lines of railroads serving iron and steel industries. Reports in 38 I. C. C., 316, 41 I. C. C., 42, 41 I. C. C., 46, and 41 I. C. C., 68.

Instituted by us concerning issuance, form, and substance of receipts and freight bills. Supplemental report in 38 I. C. C., 91.

Concerning rules and regulations governing the transportation of inflammable and other dangerous articles. Amendments to regulations prescribed.

Initiated by us concerning the reasonableness of rates on bituminous coal from points in Virginia, West Virginia, Kentucky, and Tennessee to points in Virginia, North Carolina, South Carolina, Georgia, and Florida. Reported in 37 I. C. C., 652.

Ordered by us concerning rates, practices, and regulations governing transportation of import traffic as compared with those governing domestic traffic. Reports in 36 I. C. C., 389, and 39 I. C. C., 132.

The following investigations are still open, but no reports have been made thereon during the period covered by this report:

Responsive to joint resolution of Congress of March 7, 1906, amended March 21, 1906, directing the Commission to investigate as to ownership by carriers of coal or oil properties and as to transportation by common carriers of coal or oil owned directly or indirectly by them.

Instituted by us into the issuance and use of passes and franks and as to free passenger service.

Initiated by us as to alleged unreasonable rates and practices in connection with the transportation of live stock, packing-house products, and fresh meats in the southwest. Consolidated with the investigation later instituted covering the entire jurisdiction.

On our motion concerning the character of the service, physical condition of equipment and property, financial history, and transactions and practices of the Pere Marquette Railroad Company. By subsequent order like inquiry as to the Cincinnati, Hamilton & Dayton Railway Company was ordered in the same investigation.

On our own motion respecting the handling, icing, etc., of private cars by common carriers and the allowances made to owners of such cars.

Ordered by us concerning rates, rules, regulations, and practices governing contracts for private telegraph and telephone wires.

Instituted by us concerning the reasonableness of rates on coal from producing fields in Wyoming and Montana to points in South Dakota.

Ordered by us concerning the practices of common carriers in leasing their facilities and other properties to shippers.

Instituted by us concerning the rules, regulations, and practices of carriers in establishing embargoes.

Initiated by us concerning the rules, regulations, and practices with respect to the issuance, transfer, and surrender of bills of lading.

Ordered by us as to the reasonableness of charges upon cars transported as freight on their own wheels, either loaded or empty.

Initiated by us concerning the rates, practices, rules, regulations, and classification of lumber and products of lumber.

Ordered by us concerning the reasonableness of rates on cement between points in western trunk line territory and adjacent territory.

THE FOURTH SECTION.

The matter of greatest interest and importance coming under the fourth section of the act to regulate commerce has been the question of the proper adjustment of transcontinental rates. Class rates from eastern points of origin to the Pacific coast and intermediate points are at present in strict accord with the requirements of the long-and-short-haul clause of the fourth section. With reference to commodity rates from eastern points of origin to the Pacific coast and to points in the intermediate territory, particularly the intermountain territory, the situation is more complex. These commodities are divided into three general classes, known, respectively, as schedule A, B, and C commodities. Those included within schedule A move under rates which, like the class rates, accord strictly with the requirements of the long-and-short-haul clause. The commodities included under schedule B are those which, generally speaking, are adapted to transportation by either rail or water. The rates on such articles for many years have been influenced to an appreciable degree by the rates made by the water carriers from the Atlantic coast to the Pacific ports. Upon these commodities several years before the opening of the Panama Canal the Commission authorized the carriers to continue lower rates from eastern territory to the Pacific coast ports than to intermediate territory. From points of origin on and west of

the Missouri River the rates on these articles to the Pacific coast are in accord with the long-and-short-haul provision of the fourth section; but from Chicago, Pittsburg, and New York territory the rates to intermediate points may exceed by 7, 15, and 25 per cent, respectively, the rates carried to the Pacific coast ports. The orders granting the relief referred to were attacked by the carriers, and the Commerce Court enjoined their enforcement. The cases were appealed to the Supreme Court, and that court sustained the validity of said orders in their entirety. *United States et al.* v. *A., T. & S. F. Ry. Co. et al.*, 234 U. S., 476, and *United States et al.* v. *Union Pacific R. R. Co.*, 234 U. S., 495.

Commodities included within schedule C comprise articles which are produced and manufactured in Atlantic seaboard territory and in the middle west, which lend themselves in a preeminent degree to transportation by water, and which normally would move in large volume from Atlantic seaboard to the Pacific coast; and upon these the ordinary rates by water are particularly low. Upon these schedule C commodities, by order entered April 30, 1915, we granted a greater degree of relief than is accorded to schedule B commodities in that rates to intermediate points were permitted to exceed rates to the Pacific coast ports to a greater extent than on schedule B commodities. The carriers were, however, restricted in their charges to intermediate points by certain prescribed maxima. The carriers were also restricted in the application of terminal rates on these articles to the ports of call, at which the Atlantic-Pacific steamship lines and independent steamers deliver their freight.

The opening of the Panama Canal was almost coincident with the beginning of the European war. Through the latter half of the year 1914 and the first half of the year 1915 the amount of traffic moved by water via the canal between the two coasts of the United States was practically double that which had moved by water in any preceding year. The rates applied by these water carriers for the transportation of California products, barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports to Atlantic seaboard points were so low that the all-rail carriers and the carriers operating rail-and-water lines through Galveston, Tex., and New Orleans, La., found themselves threatened with the loss of a large part of their traffic in these articles which had theretofore moved via these routes. The carriers operating rail-and-water routes through Galveston and New Orleans accordingly petitioned for authority to establish rates on these articles from Pacific coast ports to Atlantic seaboard ports which would hold to their lines some part of this traffic which at that time was being increasingly carried by water. After hearing and investigation we authorized these lines to establish carload rates from Pacific coast ports to

Atlantic seaboard ports of 40 cents per 100 pounds on barley, beans, canned goods, and asphaltum; 60 cents per 100 pounds on dried fruits; and 45 cents per 100 pounds on wine; and to maintain higher rates from intermediate California points to the same destinations.

During the latter part of the year 1915 the Panama Canal by reason of slides was closed to traffic. In the meantime the enormous demand for ships in the carrying trade between the United States and foreign countries and in the commerce of foreign nations was such as to divert thereto a large percentage of the ships formerly plying between the Atlantic and Pacific coasts of the United States through the canal. While the Panama Canal was closed the American-Hawaiian Steamship Company and the Luckenbach Steamship Company, which were the principal companies engaged in the traffic between the Atlantic and Pacific coasts of the United States, leased many of their ships for varying periods to traverse other routes; and the present situation is that there are now no regular steamship lines and relatively few ships under charter engaged in the service via the canal between the two coasts of the United States.

It was under these circumstances that petitions were filed by the Nevada Railroad Commission and the Spokane Chamber of Commerce in March, 1916, averring that the necessity which had theretofore been deemed to warrant the maintenance of lower rates to Pacific coast ports than to intermediate points no longer existed, and that the further maintenance by the rail carriers and the rail-and-water carriers through Galveston and New Orleans of lower rates from eastern defined territories to Pacific coast ports than to intermediate points constituted undue preference of the Pacific coast ports and undue prejudice against intermediate points paying higher rates.

We thereupon reopened the fourth section applications as to rates on schedule C commodities from eastern defined territories to the Pacific coast ports, and on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports via Galveston and New Orleans to Atlantic seaboard ports. After full hearing and argument we ordered the carriers to readjust the rates on schedule C commodities under the rules and restrictions provided for schedule B commodities and ordered the readjustment of the rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports and intermediate points to the Atlantic seaboard in strict accord with the requirements of the long-and-short-haul clause. Tariffs were filed by the carriers in response to the order purporting to be in compliance therewith. The tariffs filed by virtue of this order contained many proposed increases in the rates to and from the Pacific coast ports. They also included increases in many minimum weights and changes in less-than-carload commodity items. Protests were filed on behalf of shippers not only on the Pacific coast but equally by shippers in other places, and

particularly in the middle west, against the increased rates proposed in the tariffs so filed. We suspended the schedules containing these rates for further investigation until December 30, 1916. Subsequent to the suspension of these rates the Spokane Chamber of Commerce filed a petition averring that in consequence of the entire disappearance of water competition between the Atlantic and Pacific coasts of the United States there remains no justification whatever for the maintenance of rates on any commodity from eastern defined territory to Pacific coast ports lower than the rates to intermediate points. We thereupon reopened the fourth section applications relating to the rates on schedule B commodities from eastern defined territories to Pacific coast ports and assigned for hearing in November and December, 1916, at Chicago, Ill., Salt Lake City, Utah, San Francisco, Cal., Portland, Oreg., and Spokane, Wash., all of the applications asking permission to carry rates on commodities from and to the Pacific coast lower than the rates on like traffic from or to intermediate points.

The situation has so radically changed by reason of the virtual cessation of compelling water competition via the canal as to put in issue rate relationships fully justified when established but now alleged to be unduly preferential to coast cities and unduly prejudicial to interior points. It is our design to attain, if possible, a permanent basis for the adjustment of this perplexing problem which has been so provocative of complaint; and reach such a solution without any discouragement to the just relative utilization by all the people of established transcontinental avenues of transportation, by rail as well as by the canal.

Various phases of this section of the act, as well as the interpretation and application thereof, have been referred to in our previous reports. It has also heretofore been shown that 5,030 applications for permission to continue existing departures from the general requirements of this section were filed within the period prescribed in said section, to wit, on or before February 17, 1911. Many of these applications were comprehensive in their nature, embracing complex rate situations covering practically all traffic and all points in the carrying trade in which the applicants participated. In numerous instances parts of such applications have been disposed of after hearing or in connection with other proceedings involving the same rates or territories. Some of these applications still await disposition.

Experience has shown that as to a large number of the original applications the carriers were continuing in their tariffs fourth section departures in the rates protected by said applications that could not be defended, or which, in frequent instances, they no longer desired to defend. Therefore, in order to bring such rates into con-

formity with the law without further delay, we by circular letter dated April 4, 1916, requested the carriers to check over and analyze those applications which had not already been heard with a view to withdrawing such as they could not properly justify, and to report to us the I. C. C. numbers of such applications so that denial orders might be issued and proper disposition made of the applications. The carriers generally cooperated with us in this matter, and as a consequence their tariffs are being revised with this end in view. As the result of this letter many applications have already been disposed of and a large number of fourth section departures have been eliminated from the tariffs of the carriers.

In addition to the original applications referred to, 5,855 special applications have since been filed requesting fourth section relief in order that the carriers might make changes in rates to meet changed commercial and transportation conditions. Practically all such applications have been responded to by special orders.

During the period November 1, 1915, to October 31, 1916, inclusive, the number of special applications received was 524, a decrease of 149 as compared with the preceding year. During the same period 1,028 fourth section orders were entered, of which 662 were permanent in character and 366 for temporary relief. Of the 1,028 orders 577 were entered in response to applications included among the original 5,030 for authority to continue existing fourth section departures, while 451 were entered in response to the special applications which have been filed since the receipt of the 5,030 original applications. Applications withdrawn after correspondence with carriers number 48. This is an increase of 7 applications as compared with the number disposed of during the preceding year. Total applications granted numbered 433; denied, 595.

A number of important cases have been disposed of during the past year involving intricate rate adjustments which will have the effect of bringing the rates of the carriers in conformity with the law, among which might be mentioned the following:

In *Through Rates from Buffalo-Pittsburgh Territory*, 36 I. C. C., 325, the carriers are denied authority to continue through rates from Buffalo-Pittsburgh and central freight association territories to points south of the Ohio and east of the Mississippi rivers that exceed the aggregates of the intermediate rates.

In *Through Rates to Points in Louisiana and Texas*, 38 I. C. C., 153, the carriers are denied authority to continue through rates from all points east of the Mississippi River to points in Louisiana and Texas that exceed the aggregates of the intermediate rates.

In *Class and Commodity Rates*, 38 I. C. C., 411, we disposed of the applications of numerous carriers operating both north

and south of the Ohio River in the territory lying between St. Louis, Mo., and East St. Louis, Ill., on the one hand, and the Ohio River crossings on the other, and between the various Ohio River crossings themselves. This case involved the class and commodity rates via many different routes and a large number of fourth section deviations were involved. Relief was granted to certain lines operating between the river points, and in other cases of less substantial merit it was denied.

Rates on Bituminous Coal, 36 I. C. C., 401, and *Bituminous Coal to Mississippi Valley Territory*, 39 I. C. C., 378, disposed of many applications involving rates on bituminous coal from mines in Illinois, Kentucky, Tennessee, and Alabama to points in Mississippi Valley territory lower than rates contemporaneously in effect to intermediate points.

Hearings and investigations have been had on over 500 applications of the carriers in the middle west during the past year. These applications are being disposed of by orders without formal reports, in the interest of expedition, the carriers having waived their rights to formal reports.

Hearings have also been had respecting applications of the carriers relating to commodity rates from points in Illinois, Indiana, Iowa, Michigan, Missouri, and Wisconsin to Ohio River crossings which are lower than rates contemporaneously applicable on like traffic from intermediate points. These matters are now under consideration.

RATE SCHEDULES.

During the 12 months ended October 31, 1916, 106,442 tariff publications containing changes in rates, fares, classifications, or charges were filed by carriers. This is less by several thousand than the numbers filed during recent years, and it shows a continuance of the progressive decrease in the number of schedules filed from year to year as outlined in the last report. This decrease is not to be taken as indicative of a reduction in the number of changes proposed and effected. The policy of consolidating numerous schedules of individual roads into joint tariffs effects economies, reduces the number of publications, and simplifies the task of ascertaining a rate.

The act authorizes us to reject and refuse to file a schedule that is tendered for filing which does not contain lawful notice of its effective date. This authority has been exercised during the period above stated in more than 1,000 instances.

We have required rail carriers to file the divisions of joint rates applicable to the transportation of railway fuel. We have required the filing of reports as to car location and increase or reduction in rolling stock equipment and requested carriers to file, as a matter of information, copies of notices of embargoes issued by them. More

than 100,000 such documents have been filed during the period covered by this report.

The extent to which the records of the Commission in the division of tariffs are sought and consulted by shippers, agents of carriers, state commissions, and the public in general steadily increases.

The rate research work necessary in consideration of complaints and investigations, and called for by carriers and shippers, also increases steadily, and, on the whole, the work devolving upon this division has exceeded that of former years.

CLASSIFICATION OF FREIGHT.

In the last report we noted the change which had been made in the organization of the western classification committee and said that the official classification committee was soon to be reorganized along similar lines. The western classification committee has continued, with general satisfaction, the reorganized plan. The official classification committee has been reorganized, but under a plan that differs from that of the western classification committee. The western classification committee consists of three members not in the employ of any particular railroad, whereas the official classification committee consists of three such members in addition to its permanent chairman and secretary. The western classification committee decides questions of classification for the roads parties to the classification. The official classification committee is not given such authority, its recommendations being subject to approval or disapproval by the carriers parties to the classification. Under this reorganization, matters coming before the official classification committee are handled much more expeditiously than under the previous organization, but because of the necessity of submitting its recommendations for approval or disapproval to the individual carriers, conclusions are not reached as promptly as in the western classification territory. There is reason to expect that the southern classification committee will in the near future be reorganized along lines similar to those adopted by the western and official classification carriers.

Check of the current classifications shows that in the western 76 per cent represents recommendations of the committee on uniform classification, and that 89 per cent of the recommendations submitted by the uniform committee have been accepted; that in the official 70 per cent represents recommendations of the uniform committee, which it is expected will be increased to 75 per cent in an early issue; and that in the southern 84 per cent represents recommendations of the uniform committee, and that 86 per cent of the uniform committee's recommendations have been adopted.

The current issue of the western classification effected 170 increases, 365 reductions, 266 additions, and 351 changes which did not effect either increases or reductions; that of the official effected 237 reductions and 403 increases; that of the southern effected 191 increases, 156 reductions, 204 additions, and 497 changes which did not effect increases or reductions.

The western classification has been adopted to govern intrastate traffic by nearly all of the western states, the exceptions being Illinois, Nebraska, Iowa, and Texas. The official classification is applicable on intrastate traffic in all of the states in official classification territory, excepting Illinois and Virginia, which lie, respectively, on the borders between official and western and between official and southern classification territories. The southern classification has, with minor exceptions, been adopted for intrastate traffic by the states of North Carolina, South Carolina, Tennessee, and Louisiana east of the Mississippi River. The Railroad Commission of Georgia is considering the question of adopting it in that state. The southern classification, which became effective April 20, 1914, was adopted and is still in force in Alabama.

The western classification committee sits in practically continuous session; the official classification committee holds public hearings bimonthly; the southern classification committee holds three or four such hearings during the year. Except when prevented by conflicting dates, our representative has attended and kept in close touch with the hearings before the several classification committees.

As we have remarked in previous reports, the progress made in the direction of uniform classification has been rather disappointingly slow. The work, however, has been done in a thorough manner, and it is urged in some quarters that the further consideration of the uniform committee's recommendations by the several classification committees and by the individual carriers parties thereto has been a refining process which will contribute to permanency. It not infrequently happens that in such consideration of the recommendations of the uniform committee questions are raised which necessitate further exhaustive investigation and which finally result in a modification of the proposed uniform regulation. No effort has been made to establish uniformity in ratings in the several classifications. Any such effort must necessarily involve widespread and general changes in rates, because the rates are determined by the ratings. Such changes, therefore, must be undertaken with extreme care and caution and progress slowly and gradually if the result is to be of general benefit or generally satisfactory. The existing classifications have grown up in the light of conditions prevailing in the different classification territories and business has adapted itself thereto. No two of the classifications have an equal or like number of classes.

It is obvious, therefore, that to recast the classifications into a uniform number of classes involves a reclassification of practically all articles moving under class rates.

Small and occasional shippers, whose business does not warrant the employment of an expert traffic man and who do not have knowledge as to the proper and best manner in which to approach questions of classification which are of interest to them, frequently appeal to us for information and advice, and, responsive to such requests, every consistent and proper effort is made to assist them.

EXPRESS COMPANIES.

The block system of stating express rates has proven to be generally satisfactory. It has been made effective on intrastate traffic in 42 states, and negotiations are in progress looking to the adoption of it in additional states.

A uniform basis of block system commodity rates has not been adopted, although numerous commodity tariffs have been established on that system. It is not at all certain that the system is adapted to universal use in commodity tariffs. Not infrequently commodity rates are needed and are proper between certain points or in certain limited territory when there is no occasion for such rates for the whole country.

In the interest of simplification and for the purpose of expediting the handling of shipments, and to avoid delays incident to the weighing of each package of commodities that move seasonally in large volume, express companies established many years ago charges based upon estimated weights. Such estimated weight is a part of the schedule and determines the charges on the package, and it is necessary only to count the packages to ascertain the weight of the shipment. This system obtains to a large extent in the shipment of package goods by freight. Where the packages are standard and the estimated weights are approximately the true weights, the weight of the shipment is ascertained more accurately in this way than by weighing on track scales. It sometimes occurs in the course of business that the size of the commercial package is changed. If there is no corresponding change in the estimated weight under which the package moves, the charges are not correct for the service performed. The express companies have been investigating that situation with the idea of revising their schedules so that the estimated weights will represent with approximate accuracy the actual weights of the packages now in use. The proposed estimated weights have, in some instances, been objected to by shippers. The changes proposed by the express companies have not been approved by us, and further investigation relative thereto is in progress.

DIVISION OF INQUIRY.

Between November 1, 1915, and October 31, 1916, inclusive, 54 indictments were returned for violations of the act to regulate commerce and the acts supplementary thereto. The number of defendants is greater than the number of indictments indicates, because several of the indictments were against two or more defendants jointly. Twenty-two indictments were against carriers or carriers' agents and 32 against shippers, passengers, or interested parties other than carriers.

During the year 53 cases were concluded. Pleas of guilty were offered by 23 defendants and pleas of *nolo contendere* by 4 defendants; in 11 cases verdicts of guilty were rendered; in 7 cases verdicts of not guilty were rendered. In 4 cases demurrers to the indictment were sustained; and in 4 cases demurrers were overruled. Three indictments were dismissed upon motion of the Government, but in each instance pleas of guilty were offered to other indictments returned in the same case.

Experience has shown that the indictment of a corporation does not have the same preventive influence as the indictment of responsible individuals. Where personal responsibility is clear, it seems not only fairer to the corporate shareholders interested but more effective in the administration of the act to secure personal indictment. During the year 23 individuals were indicted. In the cases concluded 10 individuals pleaded guilty, of whom 9 were fined and 1 sentenced to 12 months' imprisonment; 1 individual was convicted by a jury; 3 were found not guilty; and the indictments against 6 were dismissed.

The prosecutions begun and concluded during the past year were distributed over the following states: Alabama, California, Georgia, Illinois, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Washington, West Virginia, and Wisconsin.

REBATES, CONCESSIONS, AND DISCRIMINATIONS.

SIGNIFICANT COURT DECISIONS.

The Central Railroad Company of New Jersey v. *United States*, 229 Fed., 501. The Circuit Court of Appeals for the Third Circuit affirmed the judgment of the District Court for the District of New Jersey, imposing a fine of $200,000 against the Central Railroad Company of New Jersey for granting concessions to the Lehigh Coal & Navigation Company. The evidence showed that since 1887 the railroad company had been paying allowances to the navigation company under a lease of a railroad for which the defendant during

recent years has also paid an annual rental of $2,043,000. One provision of the lease was that the navigation company would route a certain portion of its anthracite shipments over the line of the railroad company. The tariffs of the carrier filed with us since 1906 contained a note stating that allowances would be paid out of the published rate, but failed to indicate the amount of such allowances. The circuit court of appeals affirmed the rulings of the lower court that the note in the tariff, even though it had been on file with us for many years, did not authorize the payment of the allowances, and that the good faith of the carrier in paying the allowances in discharge of its contractual obligation, and in the belief that it might lawfully do so in view of the note, was no defense to the indictment, which charged that it knowingly granted rebates by paying these allowances. The Supreme Court denied a petition for certiorari, so that the points decided may now be considered as definitely established.

United States v. *Cleveland, C., C. & St. L. Railway Company, et al.*, 234 Fed., 178. The indictment charged the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, the Chicago, Indiana & Southern Railroad Company, and the Lake Shore & Michigan Southern Railway Company with rebating to the O'Gara Coal Company by the following device: The O'Gara Coal Company shipped large quantities of coal over the lines of the Cleveland, Cincinnati, Chicago & St. Louis and the Chicago, Indiana & Southern, and paid the full lawful freight charges. The Lake Shore & Michigan Southern Railway Company owned the majority of the stock of the two above-named carrier companies, and in consideration of the O'Gara Coal Company routing its traffic via the lines of these carriers it paid to the O'Gara Coal Company the sum of $10,000. The indictment alleged that the Cleveland, Cincinnati, Chicago & St. Louis and the Chicago, Indiana & Southern paid the rebate through the Lake Shore & Michigan Southern Railway Company, which acted as their agent in the transaction by reason of the fact that it controlled said companies. The defendants demurred on the ground that the mere fact that the Lake Shore & Michigan Southern owned the majority stock of the two other carriers did not constitute it their agent in the transaction. The demurrer was overruled. The court held that the indictment sufficiently alleged a device for rebating, and that the corporate relationship was sufficient basis for the necessary inference that the paying corporation acted for the carrying corporations, although it did not directly have any connection with the transportation.

This decision is deemed of much significance. Numerous instances have come to light where a carrier corporation, which is affiliated with a shipper corporation, receives concessions from a connecting

trunk line in consideration of the shipping corporation routing its traffic via the trunk line carrier. These concessions sometimes take the form of waiving per diem charges due to the trunk line by the carrier that is affiliated with the shipper. Sometimes excessive credit is extended by the trunk line to the affiliated carrier. The doctrine of the above case seems to indicate that if one carrier pays a rebate through an affiliated carrier, or, by analogy, if a shipper receives a rebate through an affiliated carrier, or if a carrier receives a rebate in consideration of its routing of the shipments of an affiliated shipper, then the language of the Elkins act may be invoked to punish the device thus employed for indirectly defeating the lawful rates.

United States v. *Illinois Central Railroad Company*, 230 Fed., 940. The Illinois Central Railroad Company had filed with us a switching tariff providing for a charge of $2 per car for switching carload shipments within the limits of the city of New Orleans. Vessels bringing bananas from Central American points docked at New Orleans, and it was necessary to dispose of the overripe bananas in New Orleans. These bananas were loaded directly from the vessels into cars, and the cars were switched to points in the city where the bananas were sold. The Illinois Central Railroad Company did not collect its published tariff charge of $2 on the theory that this traffic was not subject to the interstate commerce act. There being no dispute as to the facts, a jury trial was waived. The court held that the movement was a through one from Central America to the team tracks within the city where the ripe bananas were unloaded. It therefore held that the switching service was movement of foreign commerce and fell within the jurisdiction conferred upon this Commission in section 1 of the act. The failure to collect the switching charges therefore amounted to a violation of the Elkins act. A fine of $1,000 was imposed. The case establishes the jurisdiction of the Commission over port switching services performed on import traffic.

DEMURRAGE AND TRACK STORAGE CASES.

The practice of granting concessions and discriminations by failing to assess and collect lawfully published demurrage charges persists. Several indictments have been returned for this practice.

United States v. *Michigan Central Railroad Company.* District Court, Eastern District of Michigan (unreported). The Michigan Central Railroad Company was convicted on 12 counts for granting concessions by the device of failing to collect demurrage accruing on shipments consigned to the National Fire Proofing Company at Detroit, Mich. Evidence was introduced showing that as a result of an understanding between the carrier and the consignee no written

notice of arrival was sent to the consignee. Instead, the consignee was notified by telephone of the arrival of cars. The defense urged by the carrier was, first, that since no written notice of arrival was given, as required by tariff, no demurrage was properly assessable; second, that in view of a cartage tariff, applicable at Detroit, providing that when cartage was furnished by the agent of the carrier the demurrage tariff would not apply, the demurrage tariff was not applicable to the shipments in question because the carrier furnished a cartage service in accordance with the cartage tariff; and, third, that even if demurrage was lawfully assessable, the carrier in good faith believed that, owing to the facts urged in the first and second contentions above stated, no demurrage was to be assessed, and therefore the carrier could not be convicted of having "knowingly" granted the concessions charged. The trial court instructed the jury that the demurrage tariff was and the cartage tariff was not applicable, and that it was for the jury to find whether or not a notice of arrival had been given as to each shipment. The court also charged the jury that even if the defendant had acted in complete good faith in not collecting the demurrage, they might nevertheless find that it had "knowingly" granted the concessions. The case is now pending on appeal before the Circuit Court of Appeals for the Sixth Circuit.

The Pennsylvania Railroad Company was indicted in 50 counts for granting concessions to the Cambria Steel Company by the device of failing to collect demurrage on cars of ore transported from Lake Erie ports to the steel company at Johnstown, Pa. The demurrage tariff applicable provided that if, as a result of the inability of the consignee to receive carload shipments on its industrial tracks the cars were held by the carrier, such cars would be deemed to have been constructively placed after tender by the carrier, confirmed by a written notice. Investigation showed that during each of the past three years many carloads of ore consigned to the steel company at Johnstown had been held by the carrier on its tracks a few miles distant from Johnstown because the industrial tracks of the steel company were congested. It also appeared that while a written notice of arrival or of tender had not been sent by the carrier to the steel company at the time these cars were held by the carrier, yet the steel company had been notified each morning by telephone as to the number of cars on the tracks of the carrier. The demurrage tariff also had a provision that in case the notification requirement of the tariff was not literally observed by the carrier, if it was substantially complied with and the consignee did not object to the form of notice within 48 hours, then it could not thereafter object. Forty counts of the indictment charge that the defendant granted concessions by the device of not assessing and collecting demurrage lawfully

accrued on such carload shipments, and 10 counts charged that the carrier failed strictly to observe its demurrage tariff.

Indictments were returned against the Toledo & Ohio Central Railway Company and the Hocking Valley Railway Company for failure to collect demurrage on carload shipments of coal. The indictments allege that these carriers permitted certain coal companies to ship carloads of coal from West Virginia points to Toledo Dock, Ohio, for transshipment by vessel and did not charge demurrage on such shipments prior to the opening of the lake season on May 1 of each year. Hundreds of carloads of coal were held on the tracks of the carrier at Toledo Dock for as long as 60 days without charge. This was in direct violation of the tariffs.

The Kanawha & Michigan Railway Company, the Kelley's Creek Colliery Company, and the Hocking Valley Railway Company were also indicted for a related offense. The two carriers permitted certain large shippers to store coal in transit on their tracks from about the 1st of February until such time as the shippers had vessels at Toledo Dock to receive the coal. The Kelley's Creek Colliery Company was particularly favored by the Kanawha & Michigan. This carrier held such coal on its rails until after the 1st of June and the Hocking Valley until after the 15th of May. Under the tariffs of each carrier, if the coal had been transported directly to Toledo Dock, demurrage would have admittedly been due for such time as they were held after the 1st of May. The Kanawha & Michigan Railway Company and the Kelley's Creek Colliery Company were each indicted in 25 counts and the Hocking Valley Railway Company in 15 counts for this practice.

An indictment was returned against the Detroit & Toledo Shore Line Railroad Company for failure to collect the proper demurrage on carload shipments of coal consigned to the Norfolk & Chesapeake Coal Company at Detroit, Mich. The demurrage tariff of the carrier provided that if cars were delivered to the consignee at a daily rate in excess of the rate of shipment, so-called bunching claims would be allowed, so that the shipper would be chargeable with demurrage in the same amount as if the cars had been delivered at the same daily rate as shipped. The Norfolk & Chesapeake Coal Company filed many such claims in which the dates of shipment were falsely stated, and thus made it appear that a large part of the demurrage had accrued as a result of bunching by the railroad company. The carrier, despite the fact that its records showed the actual dates of shipment and the actual amounts of demurrage due, allowed these false bunching claims and thereby failed to collect the full demurrage due. The carrier and the shipper were each indicted in six counts and pleaded guilty. Each paid a fine of $3,000.

The last annual report described an indictment pending against the Philadelphia & Reading Railway Company for failing to collect demurrage on shipments of bituminous coal billed to Port Richmond (Philadelphia) and held by the carrier at Woodlane Yard, a point 8 miles distant from Port Richmond, awaiting arrival of barges at Port Richmond, in which the coal was to be transshipped. A demurrer to that indictment was filed and sustained, on the ground that since the demurrage tariff as described in the indictment applied on shipments held at Port Richmond and the shipments in question were alleged to have been held at Woodlane Yard, a point 8 miles distant, no offense was charged. A new indictment in 60 counts was subsequently returned, alleging that since notice of arrival was sent from Port Richmond as soon as the cars arrived at Woodlane Yard, and since Woodlane Yard is simply a storage yard connected with Port Richmond, the cars in effect were held at Port Richmond. See *Berwind-White Co.* v. *Chi. & Erie R. R.*, 235 U. S., 371.

The Delaware, Lackawanna & Western Railroad Company was indicted for failing to collect demurrage from the Delaware, Lackawanna & Western Coal Company on coal held in barges operated by the railroad in New York Harbor in accordance with its published demurrage tariffs.

The above are typical cases. Investigations have disclosed a tendency of carriers to apply their demurrage tariffs loosely. Such a practice defeats the purpose of the demurrage rules to conserve the carriers' equipment, and also results in discrimination.

REBATES AND CONCESSIONS TO FAVORED SHIPPERS.

United States v. *Lehigh Coal & Navigation Company.* District Court of New Jersey, unreported. The defendant in this case was indicted in 30 counts for knowingly accepting concessions from the Central Railroad Company of New Jersey, which, as outlined above, had previously been convicted of granting these rebates. At the trial the defendant company urged in defense, first, that in view of the defective note in the tariff no rate had been lawfully established to apply on the navigation company's shipments, and, second, that it had acted in entire good faith in accepting the allowances, believing that the note in the tariffs of the carrier was a sufficient publication of the allowance. The court, upon motion of the Government, ruled out all evidence relating to good faith and instructed the jury in accordance with the decision of the circuit court of appeals affirming the conviction of the carrier, that the rate stated in the tariff was lawfully established and applicable on defendant's shipments in spite of the note, and that defendant's good faith was not a defense. The jury returned a verdict of guilty and the court imposed a fine of

$100,000. The defendant appealed, and the case is now before the Circuit Court of Appeals for the Third Circuit.

United States v. *Swift & Company.* District Court for the Northern District of Illinois, unreported. During the year 1914 Swift & Company, the Ann Arbor Railroad Company, and the Saginaw Beef Company were indicted for irregular practices in connection with less-than-carload shipments of packing-house products in so-called peddler cars. The evidence disclosed that it was the practice of Swift & Company to load cars at Chicago with less-than-carload shipments consigned to the Saginaw Beef Company destined to various points in Michigan on the line of the Ann Arbor Railroad Company; that Swift & Company represented that these cars contained carload shipments; that Swift & Company's representative accompanied the cars and made delivery of the several less-than-carload lots at various way stations. In this way the carload rate from Chicago to the last delivery point was obtained on goods loaded in the car, instead of the aggregate of less-than-carload charges properly applicable on the several less-than-carload shipments contained in the car. In other words, Swift & Company and the Saginaw Beef Company, with the knowledge of the Ann Arbor Railroad Company, secured a peddler-car service not provided for by the tariffs. Shortly after the return of the indictments the Ann Arbor Railroad Company and the Saginaw Beef Company pleaded guilty and each paid a fine of $8,000. Swift & Company pleaded not guilty, but upon trial was found guilty.

United States v. *Northern Central Railway Company.* District Court for the Western District of New York, unreported. The Northern Central Railway Company owns two-thirds of the capital stock of the Mineral Railroad & Mining Company. The Northern Central Railway Company is also the owner of extensive coal land situated near Shamokin, Pa., and it leased this land to the Mineral Railroad & Mining Company in consideration of a royalty of 28 cents per ton, to be paid by the mining company to the carrier on each ton of anthracite coal which the mining company mined and sold from the lands. An indictment was returned on July 13, 1914, against the Northern Central Railway Company charging it with granting concessions to the Mineral Railroad & Mining Company by the device of not collecting the royalties due it under the above lease. The evidence showed that the rental of 28 cents per ton had not been paid since the year 1902, and that the Mineral Railroad & Mining Company, through its agent, the Susquehanna Coal Company, was a very large shipper of anthracite coal over the lines of the Northern Central Railway Company. Upon this evidence the jury found that the use of the lands and the failure to collect the rental constituted a device which resulted in the granting of a concession in respect to the inter-

state shipments made by the mining company over the line of the carrier. The court imposed a fine of $20,000 against the carrier. This case illustrates that while under the construction placed on the commodities clause by the courts community of interest may still exist between carriers and shippers under certain conditions, yet favoritism resulting from such relationship can be prosecuted under the Elkins act.

The New York Central Railroad Company was indicted for granting, and F. W. Stock & Son, a corporation doing business at Hillsdale, Mich., was indicted for receiving, concessions from the lawful rates by improper transit practices. The tariffs of the carrier permitted transit on wheat or flour shipped from Chicago to New York when such wheat or flour was stored, mixed, or blended at Hillsdale, Mich. The evidence showed that F. W. Stock & Son, with the acquiescence of the carrier, defeated the local rates from Hillsdale to New York applicable on flour arriving at Hillsdale from upper Michigan points by substituting at Hillsdale expense bills received on shipments arriving from Chicago. In this way shipments arriving at Hillsdale from upper Michigan points were represented as having originated at Chicago. In many instances the only change in carload shipments after they arrived at Hillsdale from upper Michigan points was the unloading of a few barrels of flour on the supposition that this would be deemed a "mixing" of the shipment such as to justify the application of the through rate from Chicago. Both the carrier and the shipper pleaded guilty, and each was fined $2,500.

REBATING ON SHIPMENTS OF COMPANY MATERIAL.

Numerous indictments have been returned in the past against carriers for paying less than the lawful rates on company material by the device of billing to a fictitious destination. Several additional indictments were returned during the present year because of this practice. The Abilene & Southern Railway Company was indicted in five counts for billing company material to a point on its line beyond its junction with the Texas & Pacific Railway and thereby securing a division of the through rate, when in fact the material was intended for use and was used at the junction point, and was transported only to that point. The rates from the points of origin of the shipments to the junction point and to the billed point were the same. Therefore, as a result of the receipt by the Abilene & Southern Railway Company of an unearned division of the joint rate to the billed destination, this company paid for the transportation of its material to the junction point less than the local rate applicable to that transportation. The carrier pleaded guilty and paid a fine of $5,000.

An indictment in three counts was returned against the St. Louis & Hannibal Railway Company for a similar practice in connection

with shipments of steel rails. The carrier had these rails billed to it at Hannibal, Mo., although they were intended for use and were unloaded at points on its line between Hannibal and its junction with the initial carrier. The indictment alleged that since the rails were distributed from the junction, the local rate to the junction, rather than the joint rate to Hannibal, should have been applied. The carrier entered a plea of guilty and a fine of $3,000 was imposed.

Indictments in one count were returned against the Union Pacific Railroad Company and the St. Louis & San Francisco Railroad Company for granting, and against the Western Tie & Timber Company for accepting, concessions on shipments of company material consigned to the Union Pacific Railroad Company. The Union Pacific Railroad Company had a contract with the Western Tie & Timber Company to purchase a large quantity of railway ties. This contract provided that the ties should be billed to a point on the Union Pacific Railroad and that the tie company should bear the freight charges from point of origin to the junction point at Kansas City, these charges being the division of the through rate which accrued to the St. Louis & San Francisco Railroad Company. Prior to the period during which the shipments moved, and also subsequent thereto, the division of the through rate which accrued to the St. Louis & San Francisco Railroad Company was 19 cents. At the solicitation of the Western Tie & Timber Company, the Union Pacific Railroad Company and the St. Louis & San Francisco Railroad Company agreed that for the limited time during which these shipments moved the division of the through rate which accrued to the St. Louis & San Francisco should be changed from 19 cents per 100 pounds to 15 cents per 100 pounds. As a result of this action the Western Tie & Timber Company paid only 15 cents per 100 pounds on the shipments instead of the normal division of 19 cents. The indictment alleged that this was a device to grant concessions to the tie company. Demurrers have been filed to the indictments and will be argued at the next term of court.

FAILURE TO OBEY ROUTING INSTRUCTIONS.

United States v. *St. Louis, Iron Mountain & Southern Railway Company.* United States District Court, Eastern District of Illinois, not reported. This is the first indictment as yet returned charging a carrier with failing to obey the routing instructions of a shipper, in violation of section 15 of the act to regulate commerce. In support of its motion to quash this indictment, the defendant urged three propositions, among others: First, that the shipper's right to designate routing existed only in case there were two or more routes established by the Commission, whereas the two routes available in this case had been voluntarily established; second, that even if the

shipper generally had the right to choose as between routes voluntarily established, this right did not exist where the effect of exercising it would be to short haul a participating carrier; third, that the shipper's right to designate routing existed only when joint rates were applicable over two or more existing routes, whereas in this case only combination rates existed over each of the routes. After argument, the court ruled that each of the defendant's contentions was without merit. The defendant pleaded guilty and was fined.

FAILURE TO FILE TARIFFS.

The indictment pending against the Philadelphia & Reading Railway Company for failure to file tariffs covering the rates charged on shipments of coal for transportation between Philadelphia and New England points by the barge line operated by the railroad company is of much interest as a test case. The indictment is in 60 counts and charges that the carrier engaged in continuous transportation of coal, partly by rail and partly by water, from points in Pennsylvania to points in New England without having on file tariffs covering the barge-line part of the through haul. The shipments were billed from the mines to Port Richmond Piers (Philadelphia) by rail, and at Philadelphia were again billed from that point to New England destinations. It appeared, however, that practically all the coal billed to Port Richmond Piers was destined to interstate points beyond. Moreover, many of the shipments were transported through to fill orders that had been received by the consignor from New England purchasers before the coal left the mines. The essential question, of course, is whether the transportation was continuous under the particular circumstances.

Numerous other instances have come to our attention where water lines, engaging in interstate commerce under what is deemed to be a common arrangement with connecting rail carriers, have not filed their tariffs with us. There appears to be some doubt as to what circumstances are necessary to constitute such a common control, management, or arrangement between rail and water carriers as to make water carriers subject to the interstate commerce act. We have indicated that where a water carrier advances the charges of a rail carrier, or vice versa, or where property is transported by a rail and a water carrier without the intervention of the shipper or his agent at the port, the shipment is to be deemed a continuous shipment, and, if interstate, both factors in the through rate should be filed.

A related practice which makes both carriers and shippers liable to prosecution consists of defeating joint rail and water rates by the billing to a port and the rebilling from the port of through shipments, in order to get the benefit of a combination rate lower than the

lawful through rate. This practice seems to be very prevalent on certain rail and water routes, and it also appears to be well known to the interested carriers. The only justification offered is that competitive conditions as between water carriers force them to acquiesce in this system of defeating the through rates. It seems needless to say that competitive conditions can not justify a violation of law.

FAILURE TO POST TARIFFS ON TIME.

Indictments were returned charging the Illinois Central Railroad Company, the Chicago, Milwaukee & St. Paul Railway Company, the Chicago & North Western Railway Company, the Chicago, Burlington & Quincy Railroad Company, and the Chicago, Milwaukee & Gary Railway Company with failure to post tariffs at Rockford, Ill., in compliance with the provisions of section 6 of the act to regulate commerce, and further charging the Illinois Central Railroad Company and the Chicago, Milwaukee & St. Paul Railway Company with failure to post tariffs at Freeport, Ill. Some of the tariffs involved were not posted until from five to seven days after their effective dates. The indictments, however, were based on the view that a violation arose on failure to post at least 30 days before the effective date.

Failure of carriers to observe the requirements of the law concerning the posting of tariffs at stations may work very serious injuries to shipping interests. The offense is more than technical, because the Supreme Court of the United States has held that a shipper is not entitled to reparation for damages resulting from the misquotation of a rate, and because the shipper's right to protest against proposed increases of rates and seek their suspension by us is practically defeated if notice of proposed changes in rates is not served in the manner contemplated by law.

SOLICITING INFORMATION.

An indictment was returned on October 5, 1914, in the district of Kansas against the Stock Yards Cotton & Linseed Oil Company and H. G. Cherry, its manager, for soliciting information from an interstate carrier relative to the transportation affairs of a competitor. Section 15 of the act to regulate commerce provides that it shall be unlawful for any person or corporation to solicit, or knowingly receive, any information from a carrier concerning shipments of competitors which may be used to the detriment or prejudice of such shippers. A plea of guilty was entered April 22, 1916, by the corporation and a fine of $400 imposed. The indictment against Cherry was dismissed. This is the only indictment thus far returned under this provision of the act.

FALSE BILLING.

The following are typical of the prosecutions against shippers undertaken and disposed of during the year for defeating the lawful rates by false representations as to the contents or weight of shipments:

United States v. *Union Mfg. Co.*, 240 U. S., 605. A typical count of the indictment charged that the South Georgia Railroad Company transported from Baden, Ga., to Greenville, Fla., for the defendant a specified carload of lumber and delivered it at Greenville to the defendant; that the published tariff provided a charge for this transportation dependent upon weight, and further provided that an estimated weight, based upon the number of feet of lumber transported, should govern; that the defendant received and unloaded the carload of lumber, and after ascertaining the number of feet thereof to be 9,074, falsely represented to the railroad company that the number of feet was 7,200; that in consequence of this misrepresentation the defendant paid less than the lawful charge for the transportation service performed.

A demurrer to the indictment was sustained by the District Court for the Southern District of Florida, on the ground that the transportation had been completed and the lumber delivered to the consignee before the alleged fraudulent representation was made, and for that reason it could not be said that the fraud charged resulted in either obtaining or attempting to obtain transportation at less than the established rates.

The Supreme Court reversed the judgment of the lower court, holding that section 10 of the act was not designed primarily to protect the property rights of carriers, but to prevent discrimination as between shippers, and therefore is not analogous to similar acts making criminal the obtaining of money by false pretenses, which are commonly construed to require that the false pretenses should precede the obtaining of the money. In the course of its opinion the court stated:

> In a case where, for any reason, the payment of freight is not made prior to the delivery of the goods to the consignee but remained to be afterwards adjusted, the effort to obtain an advantage not permitted by the schedules may still be exerted through fraudulent representation influencing the adjustment of the freight with precisely the same effect as if the representation had preceded the delivery of the goods. When this is accomplished there is an attempt to obtain transportation at less than the established rate within the meaning of the prohibition.

An indictment in 10 counts was returned against the Hewitt-Lea-Funck Company and William G. Funck, its general manager, for furnishing false descriptions of carload shipments of lumber. This company was the sales agent for large lumber interests and handled

not only rough lumber but finished products, such as window sills and doors. The rates on the finished products were higher than on rough lumber. In order to defeat the lawfully published rate, the Hewitt-Lea-Funck Company tendered numerous mixed shipments of finished and rough lumber to the carriers and described them as rough lumber. A plea of guilty was entered by each defendant. The Government requested the court to impose a sentence of imprisonment on Mr. Funck. Fines of $6,000 and $500 were imposed by the court against the company and Mr. Funck, respectively.

An indictment in 11 counts was returned against the Valley Fruit & Produce Company, a corporation engaged in business at North Yakima, Wash., and its manager, F. W. Shields, for tendering false descriptions on carload shipments of apples. There were lawfully published rates on apples shipped in bulk and apples shipped in boxes, the latter rate being lower than the former. This company made it a practice to describe shipments of bulk apples as apples in boxes, thus defeating the lawfully published rate. A plea of guilty was entered and fines of $150 and $500 were imposed against the company and Mr. Shields, respectively.

W. T. Spurgin, of Mount Sterling, Ohio, was indicted in 15 counts for understating in his shipping orders the weights on shipments of hay. Although this shipper had knowledge of the exact weight of his shipments, it was his practice to state in the shipping orders merely the carload minimum weight which was less than the actual weight. The result was to defeat the carload charges from $1 to $10 per car. While the shipments were billed collect, they were sold at a price f. o. b. destination and the freight charges were, therefore, ultimately borne by the shipper. The defendant pleaded guilty and was fined $250.

Investigation tends to show that in those sections of the country where several cases have been prosecuted recently for false billing, there has been a noticeable tendency on the part of shippers generally to describe their shipments accurately. In certain other sections where prosecutions have not been undertaken recently and where investigations are now being made, it appears that false billing is more prevalent. It is no doubt true that many instances of false billing are the result merely of carelessness upon the part of the shippers. Wherever the false billing has been frequent and has resulted in profit to the shipper, it is difficult to escape the conclusion that the false billing was willful. The serious discrimination resulting as between shippers, as well as substantial loss of revenue to the carriers from false billing, fairly places on each shipper the affirmative duty of seeing to it that his shipments are accurately described in the billing.

THE FILING OF FALSE CLAIMS.

Despite the many prosecutions in the past for the filing of false claims, fresh instances of this practice are continually coming to light. A few examples of cases prosecuted during the past 12 months follow:

United States v. *Laser Grain Co.*, eastern district of Missouri, unreported. This defendant was indicted in four counts, charging that it filed false claims with the St. Louis, Iron Mountain & Southern Railway Co. for damages alleged to have occurred to certain carload lots of peaches during the course of interstate transportation, and that it submitted in support of these claims fraudulent copies of invoices which purported to show the value of the peaches to be from 10 to 30 cents per bushel in excess of the true invoice value. Upon trial the defendant was found guilty and a fine of $1,000 was imposed by the court. Appeal was taken and the case is now pending in the Circuit Court of Appeals for the Eighth Circuit.

United States v. *Wisconsin Auto Sales Co. and Orton Collins*, eastern district of Wisconsin, unreported. These defendants were indicted in one count for filing a false claim on account of damage to an automobile body. The automobile body was in fact damaged so that repairs to it cost $15.75. Mr. Collins filed a claim for $100, which he supported with two false invoices from the companies which had done the repairing. The freight charges amounted to about $5. The indictment was demurred to on the ground that since the actual damage was greater than the freight charges, it could not be said that the claim of damage in excess of the actual damage had the effect of reducing the lawful charge. The demurrer was overruled. The company and Collins pleaded not guilty. The case was tried by a jury and both defendants were convicted. The corporation was fined $500 and Mr. Collins $200.

United States v. *Fred C. Boorman, C. Wickham Parker, and Albert H. Nelson, trading as Interstate and Continental Freight Traffic Bureau*, northern district of Illinois, unreported. These defendants were indicted in 25 counts for filing false damage claims. It was alleged in the indictment that the defendants were engaged in the business of filing claims against the carriers for loss and damage and for overcharges as agents of various shippers, and that they, in attempts to obtain refunds from carriers, falsely represented that shipments were damaged when, in fact, there was no damage. A demurrer was filed, and in support thereof defendants urged, first, that an agent of a shipper, merely for the purpose of filing claims, who was a stranger to the transportation, does not fall within the enumerated classes subject to the provisions of the third paragraph of section 10 of the act, and, second, that unsuccessful attempts to

obtain refunds by the filing of false claims do not constitute violations of the law. The demurrer was overruled. Since many of the claims filed with carriers for loss and damage are filed by agencies, like the above, which make a business of handling the claims of various shippers on a commission basis, the holding that such agencies may be indicted under section 10 is far-reaching.

Morris Stulsaft & Co., a corporation engaged in business in San Francisco, Morris Stulsaft, its president, and Jacob Stulsaft, its secretary, were indicted in seven counts for filing false claims on plumbing supplies. It was charged that after receiving new bathtubs in good condition this company substituted damaged tubs and made claim against the carrier for the alleged damage. The indictment against Morris Stulsaft was dismissed. The corporation and Jacob Stulsaft pleaded guilty and were fined $1,500 and $500, respectively.

The Cudahy Packing Co. and James W. Robb, John A. McNaughton, John E. O'Brien, and Frank Melville, and the Chicago & Alton Railroad Co. were indicted in one count for conspiracy to violate the provision of the act to regulate commerce prohibiting the filing of false claims. The Cudahy Packing Co. and the two individuals first named were also indicted in 45 counts for filing false claims and in 5 counts for receiving concessions. These indictments charged that the packing company and its officers defeated the lawful rates by the willful filing of false claims, some of which it is alleged overstated the market price of the commodity, others understated the price at which the commodity actually sold, and others falsely alleged damage resulting from delay or other causes when, in fact, no damage occurred. These indictments are pending.

PASSENGER TRANSPORTATION.

An indictment in one count was returned against the Erie Railroad Co. and the Delaware & Hudson Co. for according the use of a private car at less than the tariff rates. Investigation disclosed that the traffic official of an industrial company had been given the use of a private car for himself and a party of eight. The carrier collected one full fare for each member of the party, whereas the lawfully published tariffs provided that the exclusive use of a private car might be granted only on payment of 25 fares. The carriers pleaded guilty, and a fine of $2,500 was imposed against the Erie Railroad Co. and $1,000 against the Delaware & Hudson Co.

It appears that holders of state passes who are not entitled to interstate passes occasionally use their passes on parts of interstate journeys. The Supreme Court in *N. Y. C. R. R. Co.* v. *Gray*, 239 U. S., 583, recently held that such a practice was in violation of the act to regulate commerce.

In *Illinois Central Railroad Co.* v. *Messina*, 240 U. S., 395, the Supreme Court announced another important construction of the pass provisions of the act. In this case it was decided that a passenger may be guilty of violating the provisions of section 1 forbidding the use of a free pass or free transportation, even though such free pass or free transportation was not issued or granted by the carrier.

NEW LEGISLATION.

The following recent legislation is of interest in connection with the enforcement of the criminal provisions of the act:

The Pomerene act relating to bills of lading used in interstate commerce, which is to become effective January 1, 1917, in section 41 provides that any person who knowingly or with intent to defraud falsely makes, alters, forges, counterfeits, prints, or photographs any interstate bill of lading, or knowingly or fraudulently utters or publishes as true and genuine any such false bill of lading knowing it to be false, or aids in making or uttering the same, or issues or procures the issue of, or negotiates a bill of lading which contains false statements as to the receipt of goods or as to any other matter, or who, with intent to defraud, violates any provision of the Pomerene act, shall be subject to imprisonment not exceeding five years or a fine not exceeding $5,000, or both.

Section 10 of the Clayton act, which section will become effective on April 15, 1917, provides that in instances where a carrier and a corporation from which the carrier purchases supplies have officers in common, the carrier may not purchase supplies from such corporation in excess of $50,000 in any one year except under competitive bidding conducted in accordance with regulations approved by us. Any carrier violating this section is punishable by a fine not exceeding $25,000, and any director, agent, or officer of such carrier who shall have knowingly voted for or directed the act constituting such violation, or who shall have aided or abetted therein, is punishable by a fine not exceeding $5,000 or imprisonment for one year, or both.

The amendment to the Cummins amendment, which was approved August 9, 1916, provides in effect that in cases where the Commission expressly authorizes or requires a carrier to publish rates on property other than ordinary live stock, which rates are dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, such declaration or agreement shall limit the liability and recovery to an amount not exceeding the amount so declared or released and shall not, so far as relates to values, be held to be in violation of section 10 of the act to regulate commerce. In view of this provision, it is understood that when

such rates have been authorized by the Commission shippers may properly declare in their shipping orders a value less than the actual value in order to take advantage of lawfully established released rates or of rates dependent upon the value of the property. If, however, a shipper files a claim for loss or damage with a carrier representing the value of the property lost or damaged to be greater than it in fact was, he may still be prosecuted for violation of the provisions of section 10 prohibiting the filing of false claims.

Summaries of all indictments returned and cases concluded between November 1, 1915, and October 31, 1916, will be found in Appendix A.

DIVISION OF LAW.

Under this heading in the last annual report appears a brief statement of the matters which fall within the scope of the division of law, as constituted since March 1, 1914.

On that date 25 cases involving orders or requirements of the Commission were pending in the courts, all but 1 of which have been concluded. That case has since been decided by the Supreme Court of the United States, remanded, decided anew by a district court, and again appealed to the Supreme Court, where it is now pending argument and submission.

Since that date 50 cases involving orders or requirements of the Commission have been instituted in the courts, of which 19 have been concluded. Of the remaining 31 cases, 4 have been argued, submitted, and taken under advisement by the Supreme Court and 7 are pending argument and submission to that court. There are now pending in district courts 17 cases, of which 1 is held under advisement on a motion to dismiss, 1 is pending dismissal or reargument after decision by the Commission on rehearing, and 15 are pending hearing or final hearing and submission. Three cases, decided by the Supreme Court of the District of Columbia in favor of the Commission, are to be appealed.

During the period covered by this report 14 cases involving orders or requirements of the Commission have been instituted in the courts. Of these 3 were brought by us to compel certain railroad officials to answer certain questions relative to expenditures by carriers for political and other purposes; another to enjoin the issuance by a carrier to nonexcepted persons of passes stipulated for in deeds to rights of way; while still another was an action at law to recover the penalty provided by section 6 of the act to regulate commerce for the failure of a carrier to comply with our order requiring the filing of indexes to freight and passenger tariffs. The purpose of the other 9 cases was the annulment of certain of our orders.

Seven cases to which the Commission was a party have been decided by United States district courts, and 3 by the Supreme Court

of the District of Columbia. Of these 10 cases, 7 were decided in favor of the Commission. The remaining 3 cases, in which the decisions were adverse to the Commission, have been appealed, argued and submitted to the Supreme Court of the United States, and are now pending decision. Motions for interlocutory injunctions against orders of the Commission were denied by district courts in 2 cases, and 5 cases were dismissed in district courts on motion of petitioners or by stipulation at their instance. In the Supreme Court 2 cases were dismissed by the United States.

Summaries embracing all the foregoing are shown in Appendix B.

CASES DECIDED BY THE SUPREME COURT.

During the period covered by this report two cases to which the Commission was a party have been decided by the Supreme Court of the United States. One of these, the *Louisiana Tap Line Division Case*, was decided in favor of the Commission, while the decision in the other, the *Evansville Cement Rate Case*, was adverse to the Commission. The facts and points decided in those cases were as follows:

LOUISIANA TAP LINE DIVISION CASE.

O'Keefe v. *United States*, 240 U. S., 294.

This was an appeal from a decree of the United States District Court for the Eastern District of Louisiana dismissing a petition filed by the appellant to annul an order of the Commission which had fixed upon a distance basis the maximum divisions of blanket lumber rates allowable to tap lines for transportation services. *The Tap Line Case*, 23 I. C. C., 277, 549, 591–594; 31 I. C. C., 490.

The New Orleans, Texas & Mexico Railroad Company operates, directly and through stock ownership of other lines, a system of railroad extending from New Orleans, La., to Brownsville, Tex. At Fulton, La., this road is intersected by the Louisiana & Pacific Railway, an intrastate tap line, extending from De Ridder, La., to Lake Charles, La., a distance of approximately 44 miles. At De Ridder, 25 miles north of Fulton, the tap line connects with the Gulf, Colorado & Santa Fe and the Kansas City Southern, while at Lake Charles, 19 miles south of its junction with the New Orleans, Texas & Mexico Railroad, it connects with the Louisiana & Western, the Kansas City Southern, and the St. Louis, Iron Mountain & Southern.

Approximately 98 per cent of the traffic carried by the tap line is furnished by lumber mills owned or controlled by interests which also own the tap line. The traffic so furnished during the five fiscal years preceding the entry of the order in question constituted practically 13 per cent of the total gross tonnage of the New Orleans, Texas & Mexico Railroad Company, which in turn allowed the tap line divisions approximating 35 per cent of the joint rates.

After we had fixed the divisions upon a distance basis the tap line, in order to secure the maximum divisions of the joint rates, diverted its lumber traffic to the various lines competing with the New Orleans, Texas & Mexico Railroad Company. In other words, traffic from the mills south of Fulton was thereafter carried across the rails of the trunk line from 25 to 44 miles and delivered to the Santa Fe or the Kansas City Southern, while traffic originating north of the junction was carried across the line of the trunk line, from 19 to 44 miles, and delivered to one of the connections at Lake Charles.

In order to reclaim the tonnage of which it was thus deprived the trunk line agreed to allow the tap line divisions which were higher than those permitted by our order, but which, as claimed by the appellant, "did not give the Louisiana & Pacific Railway Company in any case a greater allowance than it can obtain under the Commission's scale from one of complainant's competitors by making a slightly longer haul."

The execution of this agreement being precluded by our order, the receiver of the New Orleans, Texas & Mexico Railroad Company filed a petition in the United States District Court for the Eastern District of Louisiana to enjoin the order. An injunction was asked, not by the trunk line because the divisions fixed by us were excessive, nor by the tap line because such divisions were inadequate, but by the trunk line because it was unable to pay to the tap line a sufficient amount by way of divisions to prevent a diversion of traffic to the lines of its competitors.

Upon consideration of the facts presented, and in accordance with the rule prescribed by the Supreme Court in the *Tap Line Cases*, 234 U. S., 1, that a tap line should receive "just compensation only for what it actually does," the district court denied an injunction and dismissed the petition.

On appeal to the Supreme Court it was urged on behalf of the appellant that our order was invalid for the reason that the carriers had not been afforded an opportunity to agree upon the divisions which should be allowed.

The Supreme Court in overruling this contention referred to the provisions of section 15, whereby the Commission is empowered to prescribe reasonable maximum charges payable by carriers to shippers for transportation services, and said, pages 301–302:

> In the case in 234 U. S., 1 [*Tap Line Cases*], this court did not ignore, but fully recognized, the significance of the community of interest between the lumber company and the tap line. It was pointed out (p. 27) that timber and its manufactured products were exempted from the absolute prohibition of the commodity clause of the Hepburn act (of June 29, 1906, ch. 3591, 34 Stat., 584, 585). But this was regarded as one of the circumstances rendering it important that the Commission should deal with the abuses found to exist in the division of joint rates with the tap lines, not by abolishing them altogether, but by "reducing the amount so that a tap line shall receive just compensation

only for what it actually does." So, in *Interstate Com. Comm.* v. *Diffenbaugh*, 222 U. S., 42, 46, the court said: "The act of Congress in terms contemplates that if the carrier receives services from an owner of property transported, or uses instrumentalities furnished by the latter, he shall pay for them. That is taken for granted in section 15; the only restriction being that he shall pay no more than is reasonable, and the only permissive element being that the Commission may determine the maximum." Again, in *Ellis* v. *Int. Com. Comm.*, 237 U. S., 434, 445, it was said: "The intervening corporation may be a means by which an owner of property transported indirectly renders the services in question, and in that event its charges are subject to the Commission by section 15." We are clear that the Commission had jurisdiction to make the order of July 29, 1914.

In disposing of a contention on behalf of the appellant that the order was void because the Commission had disregarded the element of competition as determining the reasonableness of the divisions sought to be allowed, the Supreme Court said, page 302:

The order is not open to this criticism. It not only takes competitive conditions into consideration, but establishes the maximum divisions for the very purpose of preventing preferences, discriminations, and rebates as methods of competition.

Appellant contended that there was no evidence before the Commission to enable it to determine what might be a just compensation for a haul of a given number of miles as compared with a haul of a greater or lesser number of miles, but this contention also was rejected by the court, it being said, page 303:

A tribunal such as the Interstate Commerce Commission, expert in matters of rate regulation, may be presumed to be able to draw inferences that are not obvious to others.

In overruling the final contention of the appellant, that the order of the Commission deprived the trunk line of its property without due process of law, because it abridged its right to contract and compete for traffic originating on the line of the Louisiana & Pacific Railway, the court declared, page 304, that:

The trunk line has no constitutional right to build up its business by paying bonuses or rebates that have been forbidden by act of Congress for considerations affecting the public welfare.

In consideration of the foregoing principles, the court sustained the order and expressly refrained from any intimation of opinion as to whether or not the agreement made by the carriers after the entry thereof should be approved by the Commission. The decree of the district court denying an injunction and dismissing the petition was accordingly affirmed.

EVANSVILLE CEMENT RATE CASE.

Phila. & Reading Ry. v. *United States*, 240 U. S., 334.

The Philadelphia & Reading Railway Company appealed in this proceeding from a final decree of the United States District Court for the Eastern District of Pennsylvania, dismissing a petition filed

by the carrier to annul an order of the Commission. *Allentown Portland Cement Co.* v. *Philadelphia & Reading Ry. Co. et al.*, 27 I. C. C., 448. The case involved the application to cement, shipped to Jersey City, N. J., for local consumption, of certain alleged unjust and unreasonable rates which it was claimed by the petitioner before the Commission were subjecting Jersey City and its traffic to undue and unreasonable prejudices and disadvantages.

Evansville is reached directly only by the lines of the appellant, and the traffic in question was moved by that carrier from Evansville to Allentown, Pa., where it was turned over to one of several connections for final delivery at Jersey City. The rate applicable via those routes was $1.35 per ton. Certain of the connecting lines, which also served other mills in the same general vicinity as Allentown, applied to cement traffic from such mills to Jersey City a rate of 80 cents per ton. And while the Philadelphia & Reading Railway did not participate in the 80-cent rate from any mill in the district, it was nevertheless a party to tariffs under which cement might be purchased as cheaply at Evansville as at neighboring mills in the Lehigh district by dealers in and consumers of cement at practically all points of importance east of that district, with the single exception of Jersey City.

On shipments to Jersey City for transshipment by water to points in the southeast, such as Charleston and Savannah, the rate from Evansville was the same as from the other mills in the district, and this equality of Evansville with such other mills was likewise maintained with respect to traffic destined to Philadelphia, Baltimore, New York City, and various New England points. In other words, the same rate was applicable from Evansville as from other mills in the Lehigh district to all points east, except on traffic consigned to Jersey City for local consumption.

A complaint having been filed with the Commission by the Allentown Portland Cement Company, attacking the rates in question as unjust and unreasonable, and as discriminating against complainant and the locality of its plant at Evansville, we conducted a hearing, at which the foregoing facts were developed, and concluded that by reason of the situation with respect to rates complainant was unable to sell any cement in Jersey City for local consumption in competition with mills from which the rate of 80 cents applied. We found further that as a result of this situation Jersey City and its traffic were subjected to an undue prejudice and disadvantage.

An order was accordingly entered requiring the carriers to cease and desist from such undue prejudice and disadvantage resulting from appellant's maintenance of or participation in rates on cement to Baltimore, Philadelphia, New York City, and other eastern destinations which were not higher from Evansville than from other mills in the Lehigh district, while contemporaneously refusing to

participate in the same relative adjustment of rates from Evansville to Jersey City.

The Philadelphia & Reading Railway Company thereupon applied to the United States District Court for the Eastern District of Pennsylvania for an injunction against our order, but the petition was dismissed. *Philadelphia & Reading Ry. Co.* v. *United States et al.*, 219 Fed., 988.

Upon appeal to the Supreme Court it was urged on behalf of the appellant that the order in question, when considered in connection with the report of the Commission, was unsupported by the ascertained facts of record, and that court, sustaining this contention, said, page 341:

> We must assume the Jersey City rate of $1.35 is intrinsically reasonable and nondiscriminatory in relation to those accorded other consuming points; and, plainly, if this were put in by all carriers, the Commission's order would be complied with and the supposed discrimination disappear. It must be taken as true that no rate above what all might lawfully establish is being demanded by any carrier; and, with one exception, they are paid 40 per cent less than that amount. If a universal rate of $1.35 could not justly be complained of by the locality, certainly *it* is not discriminated against or unlawfully prejudiced, because, failing to agree, most of the carriers have established an 80-cent schedule. In the circumstances disclosed it is impossible rightly to conclude that Jersey City is being subjected to "any undue or unreasonable prejudice or disadvantage."

The decree of the district court dismissing the petition was accordingly reversed and the cause remanded for further proceedings in accordance with the foregoing conclusions.

DIVISION OF CARRIERS' ACCOUNTS.

The division of carriers' accounts is one of the agencies used by us to accomplish the purposes of the act to regulate commerce. The division was created to carry out the provisions of section 20 of the act as revised by the Hepburn amendment in 1906, which empowered the Commission to prescribe uniform accounting systems to be adopted by the carriers subject to the act and to employ examiners to inspect the accounts, records, and memoranda of such carriers. For each of the several classes of carriers that are subject to the act a uniform system of accounts has accordingly been prescribed, in which provision is made for the proper accounting of every dollar of the carriers' receipts and expenditures and for the classification of all amounts received or expended. To the extent therefore that those accounting requirements are followed by the carriers, the principle of uniformity is given effect. Receipts and expenditures should be accounted for in precisely the same manner by all carriers of the same class, and similar items should be classified alike. That such uniformity in accounting is a public necessity and of value not only to the Commission but also to shippers, investors, bankers, and others will readily be seen.

It is obvious, however, that accounting rules and regulations, no matter how complete, constitute but the first step toward the attainment of uniformity in accounting methods and practices, and will not in and of themselves attain that end. If the rules constituted the only deterrent, the principle of uniformity could be defeated by the carriers through deliberate disregard of them or carelessness or lack of understanding in their application. Even in the case of carriers that endeavor faithfully to comply with the classifications, different accounting officers may construe the rules differently and the principle of uniformity thereby be impaired. Only through adequate supervision may there be assurance of uniformity of accounting in accordance with the law. Accordingly it is essential to the enforcement of the regulations that examinations of accounts be made in the carriers' offices. Such examinations bring to light many incorrect interpretations and applications of the rules and result in their discontinuance or correction. The fact that such an examination of its accounts may be made at any time also exerts an influence which has a distinct bearing on the correctness of a carrier's accounting. Furthermore, abuse or violation of those provisions of the act which deal with the maintenance of published rates in some manner affects the accounts, and often such practices can be discovered through examinations of accounts.

In our last annual report a list of all the accounting classifications then in effect was given. Since that time the publication entitled "Regulations to Govern the Issuing and Recording of Passes" for steam roads has been revised and amplified to include electric railways and water lines. The effective date of this publication is January 1, 1917. There was also published "Interpretations of Accounting Classifications" for telephone companies, which became effective July 1, 1916. Similar interpretations of classifications applying to the accounts of water lines and express companies are nearing completion.

While uniformity in accounting is perhaps the most important object which has to be considered in the formulation of the classifications, it is by no means the only one to be kept in view. Other desired ends have had to be considered, viz, (1) to have the receipts and expenditures recorded, grouped, and reported in such manner and in sufficient detail to be of the greatest service to us for the purposes of rate regulation and valuation; (2) to meet the practical requirements of carriers without imposing unnecessary burdens; and (3) to conform the systems to the best accounting principles. With these purposes in mind, the classifications have been revised and republished from time to time, with the result that the present regulations reflect the best views on common-carrier accounting. One has but to compare the successive revisions to note

the evolution, development, and increasing utility of the accounting systems. On the whole the current classifications appear to meet present conditions adequately, and it is hoped that no radical changes will hereafter be necessary, although revisions must necessarily be made from time to time in order that the regulations may be responsive to any changes in conditions.

Obviously no set of regulations could be formulated that would meet every condition likely to arise in a carrier's operations. As a result, therefore, of the inquiries by carriers respecting special cases a large volume of correspondence is carried on, from which develop the questions and answers published at intervals as "Interpretations of Accounting Classifications."

Much valuable information not expedient to require in annual reports has been gathered by the division and much good has been accomplished in the past few years by sending out circulars to carriers requiring from them special reports touching particular features of their accounts. Varying practices are thus disclosed, and steps are taken to have erroneous methods corrected, thus subserving the principle of uniform accounting. As illustrative of this class of work may be mentioned two circulars sent out at different times requiring the steam roads to report their current methods relating to the depreciation of equipment. A similar circular was addressed to the electric lines. Through the same medium the steam roads were required to submit information relative to operating reserves and data respecting their locomotives awaiting repairs; and telephone companies were called upon to submit information regarding fixed capital retired. The division's field forces also investigate these matters; but the number of men available for field work is so small compared with the large number of carriers that a subject like depreciation, for example, can not be covered simultaneously on all lines except through special reports submitted by carriers in response to accounting circulars.

The reports of the steam roads in response to the circulars pertaining to depreciation of equipment indicated a great diversity in the rates of depreciation applied, and a misunderstanding in many cases of the accounting rules in that particular. A few of the smaller and weaker roads were found to be charging no depreciation at all. While we have not prescribed the percentages upon which depreciation shall be figured, we require all carriers to apply reasonable percentages, based on experience and the best sources of information as to the current loss from depreciation. Those companies reporting excessive or inadequate percentages were accordingly called upon to justify their charges, and many of them being unable to do so, were required to adjust their practices to conform to the spirit of the regulations. Recognizing the difficulties involved, we have been rather lenient in the past with the carriers in the matter of depreciation, but

our rules on this subject are now being more rigidly enforced. The circular relating to locomotives awaiting repairs developed that some roads were carrying in property accounts the cost of locomotives which had been in disuse for years or had actually been disposed of. Most of the roads have satisfactorily adjusted their accounts and it is expected that the others will do so. These instances illustrate the value of the studies being conducted by means of special report circulars.

The work of examining the accounts of carriers in their offices is done by field examiners, who, after years of practical common-carrier accounting experience, have been trained in the Commission's service. They accomplish their duties by means of the general examination and the special examination, the former embracing a general survey of all the accounts and departments of a carrier, the latter being confined to a special investigation of particular features of the accounts. Practices at variance with our regulations are recorded in a report. After review, immediate action is taken to require the carrier to discontinue and correct the irregular practices reported, this being accomplished either by correspondence or conferences with the carrier's accounting officers.

During the past year a distinct advance has been made in the methods of conducting examinations and handling reports, which, with improvements in organization, has resulted in a larger number of examinations and consequent correction of a greater number of erroneous practices than in any previous two years of the division's existence. Each erroneous practice adjusted marks a step toward complete uniformity.

The great majority of erroneous practices disclosed by the examinations conducted by the division are not the result of willful intent and it has usually been possible to effect adjustments without resorting to extreme measures. In fact, it may be said that most accounting officers of carriers are now in full accord with our accounting regulations and are inclined to welcome examinations as assisting them in keeping their accounts properly.

DIVISION OF STATISTICS.

The general character of the work of this division has been stated in previous reports. The volume of its work, like that of other divisions of the Commission, is constantly increasing.

Our requirements in the matter of annual reports have been extended so as to bring in for the first time annual reports of smaller telephone companies and of smaller carriers by water. The limit for telephone companies was lowered from annual revenues of $250,000 to $10,000 and that for carriers by water was entirely removed, thus greatly increasing the numbers of these companies brought within the scope of the requirement of annual

reports. Such reports for 1915 were filed by 822 telephone companies and 126 carriers by water. The corresponding numbers for the preceding year were, respectively, 58 and 38. The reports of these companies show in many instances failure to comply fully with the requirements of the uniform systems of accounts prescribed by the Commission, but in most cases the failures do not indicate any intentional violation of the rules. The work of the division in analyzing the reports and pointing out discrepancies and errors is improving the accounting of these classes of companies and gradually bringing about more reliable records and reports.

Beginning as of January 1, 1916, we have required monthly reports of revenues and expenses of telegraph companies and monthly or quarterly reports of telephone companies earning more than $50,000 per annum. Such reports are now being made by 51 telegraph companies and 196 telephone companies.

Under date of June 24, 1916, there was issued an abstract giving some of the principal figures compiled for the Twenty-eighth Annual Report on the Statistics of Railways, relating to the year ended June 30, 1915. The report itself is a voluminous document and is still in the hands of the printer.

The preparation of the Preliminary Abstract of Statistics of Common Carriers for the year ended June 30, 1916, is substantially completed. This abstract is based on the annual reports of carriers and the figures contained in it are compiled from the reports as rendered, thus being subject to revision. The revised figures are included in the later published volume entitled Statistics of Railways in the United States. The preliminary abstract shows important financial and traffic statistics of individual steam railway companies having annual operating revenues in excess of $1,000,000. It also contains figures for the Pullman Company and a statement of the income account and the profit and loss account of the principal express companies in the United States.

Under date of October 2, 1916, we entered orders requiring common carriers by steam railway whose operating revenues exceed $1,000,000 per annum to render semimonthly reports of freight car requirements and supply, beginning as of October 15, 1916, and quarterly reports of condition of freight cars, beginning as of January 1, 1917. The semimonthly forms call for the number of carloads of freight awaiting cars, the number of empty cars at stations available for loading, the estimated number of cars available for loading within 24 hours, the number of loaded cars awaiting unloading, the number of cars on the respondent's road, including its own and those of other carriers and companies, and the total number of freight cars owned or leased by the respondent. The statement is required to be made as of 7 a. m. on the 1st day and the 15th day

of each month. The quarterly report forms call for the number of the respondent's freight cars on its road, the number of other carriers' freight cars on the respondent's road, the number of private freight cars on the respondent's road, the total number of freight cars owned or leased on the date as of which the report is made, and the number of freight cars installed and of those withdrawn from service during the preceding quarter. Provision is also made for showing the number and per cent of cars in shop and awaiting shop, including all freight-carrying cars not fit for service. The purpose of these requirements is to afford us and the public better information as to the adequacy of freight-car supply and the condition of freight-car equipment.

Besides such work as that above described, the division has made various studies of the statistical aspects of particular cases coming before the Commission for determination and its work of this character is continually increasing. One line of study in this connection that has received attention is that regarding the comparative density of traffic and the cost of operation in various geographical regions and the relation which these matters bear to the level of freight rates. The subject of freight traffic statistics is also receiving further attention.

In Appendix C there are presented various figures compiled from annual and other periodic reports filed with us.

OPERATING INCOME OF RAILWAYS.

In order to show the trend of the relation between operating income of carriers by steam railway and their investment in plant and equipment, we have prepared the following summary statement for the 25 years ended June 30, 1891, to 1915, inclusive, the available figures for operating revenue, expenses, taxes, and book cost of plant and equipment, together with figures for length of road represented by the operating and the investment figures. The investment figures for the earlier years are considered less reliable than for the later years. The figures for income from operation are considered to be reliable for comparative purposes. It appears probable that for the earlier years of the statement the figures for average book cost of road and equipment per mile of road are overstated, resulting in an understatement for the earlier years of the percentage relation of operating income per mile of road to cost of plant and equipment per mile of road. During the 5 years 1911 to 1915, the operating ratio is substantially higher than during the 20 years preceding July 1, 1910.

For comparison there are shown at the foot of the statement operating figures compiled from the monthly reports of operating revenues and expenses.

Analysis of operating income of railways in the United States, July 1, 1890, to June 30, 1915, inclusive, and comparison of such income per mile of road, etc., with book cost per mile of road, etc.

Year ended June 30.	Results of operation.									Book cost of road and equipment.	Number of miles of road represented.	Average book cost of road and equipment per mile of road.	Ratio of column (j) to column (m).	Average freight revenue per ton-mile.
	Operating revenues.	Operating expenses.	Operating ratio.	Taxes.	Income from operation.	Number of miles operated (including trackage rights).	Ratio of mileage operated under trackage rights to mileage with trackage figures omitted.	Average income per mile operated. (Trackage being included in divisor).	Average income per mile operated, adjusted to eliminate effect due to duplication on account of trackage.					
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)
			Per ct.			*Miles.*	*Per ct.*				*Miles.*		*Per ct.*	*Cent.*
1891	$1,096,761,395	$731,887,893	66.73	$33,280,095	$331,593,407	161,275.17	2.43	$2,056	$2,106	$8,738,533,165	(1)			0.895
1892	1,171,407,343	780,997,996	66.67	34,053,495	356,355,852	162,397.30	2.49	2,194	2,249	8,564,394,830	143,516.64	$59,675	3.77	.898
1893	1,220,751,874	827,921,299	67.82	36,514,689	356,315,886	169,779.84	2.49	2,099	2,151	8,937,545,760	161,258.07	55,424	3.88	.878
1894	1,073,361,797	731,414,322	68.14	38,125,274	303,822,201	175,690.96	2.44	1,729	1,771	9,073,470,532	164,008.71	55,323	3.20	.860
1895	1,075,371,462	725,720,415	67.49	39,832,433	309,818,614	177,746.25	2.47	1,743	1,786	9,203,490,619	167,741.38	54,867	3.26	.839
Total	5,637,653,871	3,797,941,925	67.37	181,805,986	1,657,905,960	846,889.52	2.46	1,958	2,006	[2] 35,778,901,741	636,524.80	56,210	3.57	.....
1896	1,150,169,376	772,989,044	67.21	39,970,791	337,209,541	181,982.64	2.66	1,853	1,902	9,500,327,733	173,860.12	54,644	3.48	.806
1897	1,122,089,773	752,524,764	67.06	43,137,844	326,427,165	183,284.25	2.75	1,781	1,830	9,709,329,228	174,673.22	55,586	3.29	.798
1898	1,247,325,621	817,973,276	65.58	43,828,224	385,524,121	184,648.26	2.99	2,088	2,150	9,760,581,424	170,060.03	57,395	3.75	.753
1899	1,313,610,118	856,968,999	65.24	46,337,632	410,303,487	187,534.68	2.92	2,188	2,252	9,961,840,805	177,638.59	56,079	4.02	.724
1900	1,487,044,814	961,428,511	64.65	48,332,273	477,284,030	192,556.03	3.04	2,479	2,554	10,263,313,400	181,437.01	56,567	4.52	.729
Total	6,320,239,702	4,161,884,594	65.85	221,606,764	1,936,748,344	930,005.86	2.87	2,083	2,143	49,195,392,590	877,668.97	56,052	3.82	.....
1901	1,588,526,037	1,030,397,270	64.86	50,944,372	507,184,395	195,561.92	2.95	2,593	2,670	10,405,095,085	182,734.04	56,941	4.69	.750
1902	1,726,380,267	1,116,248,747	64.66	54,465,437	555,666,083	200,154.56	2.76	2,776	2,853	10,658,321,376	187,442.35	56,862	5.02	.757
1903	1,900,846,907	1,257,538,852	66.16	57,849,569	585,458,486	205,313.54	2.96	2,852	2,936	10,973,504,903	193,823.01	56,616	5.19	.763
1904	1,975,174,091	1,338,896,253	67.79	61,696,354	574,581,484	212,243.20	3.23	2,707	2,794	11,511,537,131	198,841.19	57,893	4.83	.780
1905	2,082,482,406	1,390,602,152	66.78	63,474,679	628,405,575	216,973.61	3.61	2,896	3,001	11,951,348,949	203,228.07	58,808	5.10	.766
Total	9,273,409,708	6,133,683,274	66.14	288,430,411	2,851,296,023	1,030,246.83	3.11	2,768	2,854	55,499,807,444	966,068.66	57,449	4.97	.....

1906.....	2,325,765,167	1,536,877,271	66.08	74,785,615	714,102,281	222,340.30	3.67	3,212	3,330	12,420,287,988	208,310.51	59,624	5.58	.748
1907.....	2,589,105,578	1,748,515,814	67.53	80,312,375	760,277,389	227,454.83	3.80	3,343	3,470	13,030,344,328	210,792.59	61,816	5.61	.759
1908 [8].....	2,440,638,832	1,710,401,791	70.08	84,555,146	645,681,895	227,257.02	3.90	2,841	2,952	13,213,766,540	213,888.36	61,779	4.78	[8].754
1909 [8].....	2,473,205,301	1,650,034,204	66.72	90,529,014	732,642,083	232,981.11	4.16	3,145	3,276	13,609,183,515	221,679.45	61,391	5.34	[8].763
1910 [8].....	2,812,141,575	1,881,879,118	66.92	103,795,701	826,466,756	236,986.51	4.49	3,487	3,644	14,387,816,099	226,114.66	63,631	5.73	[8].753
Total....	12,640,856,453	8,527,708,198	67.46	433,977,851	3,679,170,404	1,147,019.77	4.01	3,208	3,337	66,661,398,420	1,080,785.57	61,679	5.41	.....
1911 [3].....	2,852,854,721	1,976,331,864	69.28	108,309,512	768,213,345	243,433.61	4.68	3,156	3,304	[4] 15,195,262,635	[4] 223,843.29	67,883	4.87	[8].757
1912 [3].....	2,906,415,869	2,035,057,529	70.02	120,091,534	751,266,806	246,828.74	4.78	3,044	3,190	[5] 15,874,579,626	[5] 229,902.66	69,049	4.62	[8].744
1913 [6].....	3,193,117,834	2,235,922,626	70.02	127,331,960	829,863,248	242,657.12	4.79	3,420	3,584	[4] 16,351,639,266	[4] 233,456.23	70,042	5.12	[9].729
1914 [6].....	3,111,396,422	2,266,179,768	72.83	140,531,575	704,685,079	245,624.55	4.79	2,869	3,006	[4] 16,936,697,840	[4] 235,985.60	71,770	4.19	[9].733
1915 [3].....	2,956,193,202	2,088,682,956	70.65	139,298,167	728,212,079	256,213.61	4.58	2,842	2,972	[4] 17,247,101,881	[4] 237,272.11	72,689	4.09	[9].732
Total....	15,019,978,048	10,602,174,743	70.59	635,562,748	3,782,240,557	1,234,757.63	4.72	3,063	3,208	81,605,281,248	1,160,459.89	70,321	4.56	.....
Grand total..	48,892,137,782	33,223,392,734	67.95	1,761,383,760	13,907,361,288	5,188,919.61	3.54	2,680	2,775	[2] 288,740,781,443	4,721,507.89	61,154	4.54	.....
1916 [7].....	3,370,789,396	2,204,228,637	65.39	145,530,215	1,021,030,544	228,896.51	[10] 4.72	4,461	[10] 4,671	.....	.....	[10] 73,500	[10] 6.35	.....

[1] Mileage returns for balance sheet figures not stated in the annual statistical report of the Commission.
[2] Does not include figures for 1891, as no mileage is stated for that year.
[3] Returns do not include data for switching and terminal companies.
[4] Represent returns for Class I and Class II roads and their nonoperating subsidiaries.
[5] Represent returns for Class I and Class II roads and their nonoperating subsidiaries. Figures are taken from the 1913 statistical report.
[6] Returns for operations, columns (b) to (j), inclusive, are based on figures which exclude returns for so-called small roads and switching and terminal companies.
[7] Figures in columns (b) to (g), inclusive, and (i) are from monthly reports of revenues and expenses of Class I roads, excluding switching and terminal companies.
[8] The averages shown for 1908 to 1912 are not fully comparable with those for previous years, chiefly for the reason that the figures upon which they are based do not include returns for switching and terminal companies.
[9] Data for Class I and Class II carriers.
[10] Based on estimated figures.

DIVISION OF SAFETY.

The work of the division of safety during the past year has been substantially similar to its work in previous years. A detailed report of this work is published separately.

SAFETY APPLIANCE ACTS.

During the fiscal year ended June 30, 1916, 123 employees were killed and 2,194 injured in coupling and uncoupling cars, and casualties resulting from overhead and side obstructions and from falling from and getting on and off cars occasioned 505 deaths and 13,811 injuries. This represents an increase of 33 in the number killed and 200 in the number injured in the former class of accidents and 47 in the number killed and 1,683 in the number injured in the latter class of accidents, as compared with the previous year.

During the fiscal year 267 cases, involving an aggregate of 703 violations of the law, were transmitted to the several United States district attorneys for prosecution. Cases comprising 86 counts were tried, of which 54 counts were decided in favor of and 5 counts against the Government; 27 counts are still pending decision, and confession of judgment was had as to 473 counts. Cases involving 47 counts which were pending decision at the beginning of the last fiscal year have been decided, 35 in favor of and 12 against the Government, which 12 counts were argued in the circuit court of appeals and decision rendered in favor of the Government. The decision of the circuit court of appeals in *Spokane & Inland Empire R. R. Co. Case*, involving 15 counts, and taken to the Supreme Court on writ of error, was affirmed in a decision rendered in favor of the Government.

Attention is called to the fact that there was a marked increase in the number of violations of the safety appliance acts reported for prosecution as compared with the preceding year. This condition indicates the necessity for a more rigid inspection on the part of the carriers at terminal and repair points, as well as the maintenance of an adequate force at such places properly to keep equipment in a safe condition. In the majority of instances in which suit has been instituted for violation of this act, the repairs needed to put the equipment in lawful order could readily have been made without taking the car to any repair track.

As the period within which the carriers were required to equip their freight cars to comply with the standards fixed by the Commission's order of March 13, 1911, would expire July 1, 1916, upon application of the carriers a hearing was held on September 28, 1915, for the purpose of permitting all parties interested to show cause why a further extension of time should or should not be granted within which all carriers might comply with the order.

At this hearing it was shown that out of a total of 2,025,254 cars in service on July 1, 1911, on roads having a total mileage of about 232,000 miles, it was estimated by the carriers that 1,669,064 cars, or about 82 per cent, would be either equipped in accordance with the Commission's order or removed from service by July 1, 1916, leaving about 356,000 cars unequipped on that date.

After fully considering the facts presented at this hearing, the Commission on November 2, 1915, issued an order further extending the time within which to comply with its order of March 13, 1911, as to paragraphs b, c, e, and f., for a period of 12 months from July 1, 1916. The requirements of the act of April 14, 1910, and of the Commission's order entered pursuant thereto, will therefore become fully effective July 1, 1917.

JUDICIAL INTERPRETATION OF THE SAFETY APPLIANCE ACTS.

During the year there were three important decisions of the Supreme Court in the interpretation of the safety appliance acts.

In *Texas & Pacific Railway Co.* v. *Rigsby*, 241 U. S., 33, a switchman in the employ of an interstate railroad, who was injured through a defect in a handhold or grab iron forming one of the rungs of a ladder on a box car upon which he was descending after having set a brake operated from the roof of the car, was held to be within the protection of section 2 of the act of April 14, 1910, which directs that all cars requiring secure ladders shall be equipped with them, and this protection of the act is afforded even though the injured employee was not himself engaged in interstate commerce.

This case applies the doctrine of the absolute and unqualified duty of the carrier to maintain in proper condition the appliances required by the several acts.

In *Spokane & Inland Empire R. R. Co.* v. *United States*, 241 U. S., 344, it was held that passenger cars operated in trains on a standard-gauge interurban interstate electric railway are not within the exception in favor of cars "used on street railways," which is made by the amendment of March 2, 1903, although they run over local street railway tracks for a short distance between the city limits and a terminal station. In this case the court intimated that the difficulty or impossibility of equipping particular cars with appliances required by the safety appliance acts does not relieve a carrier from liability to penalties prescribed for violation of the acts.

In *Spokane & Inland Empire R. R. Co.* v. *Campbell*, 241 U. S., 497, the court held that the power brake provisions of the act of March 2, 1903, were applicable to electric motors and trains drawn by them on an interstate interurban electric railway.

In *Chesapeake & Ohio Railway Co.* v. *United States*, 226 Fed., 683, the United States Circuit Court of Appeals for the Fourth Cir-

cuit held that the movement of a car, the coupling apparatus of which was out of order and unworkable, to a place of unloading, not for repairs or in any other than commercial service, renders the carrier liable in a suit for penalty, although the carrier may be ignorant of the existence of the defects, no protection for such a movement being afforded by proviso in the act of April 14, 1910.

The Circuit Court of Appeals for the Ninth Circuit, following and approving *Virginian Railway Co.* v. *United States*, 223 Fed., 748, held in *United States* v. *Great Northern Railway Co.*, 229 Fed., 927, that it was the intention of Congress by the power brake provision of the safety appliance act to make it unlawful to require brakemen to use hand brakes in the ordinary management and movement of freight trains in interstate commerce.

In *United States* v. *Southern Pacific Co.*, decided October 14, 1915, in the District Court for the Northern District of California, it was held that the absence of proof by a carrier that repairs to cars hauled in defective condition can not be made without removal of a car to a repair point entitles the Government to recover.

In this case the carrier contended that it was entitled to haul the cars for the purpose of repair under the proviso in section 4 of the act of April 14, 1910, but the court held that to bring itself within the language of such proviso the carrier must affirmatively show that the movement of the cars is necessary to make such repairs and that such repairs can not be made except at such repair point.

An important decision was rendered in *United States* v. *Pennsylvania Co.* by the United States District Court for the Northern District of Ohio, Eastern Division, July 2, 1915, not yet officially reported, in which the court held unlawful the movement for a long distance of a train of bad-order cars chained together because of absence of or defects in drawbars and from localities where repair facilities were inadequately supplied to other points where such repairs could be more conveniently made. The court said:

> The alternative to this movement of bad-order cars complained of was the enlarging of the yards or the increasing of the force of operatives at the repair yards at the points where the exigencies of its business had led the defendant to establish them. * * * Failure to have repair yards of adequate capacity, or the failure to provide a sufficient force of men to repair cars which may become out of repair in the vicinity of the established yards of the carrier, can not be permitted to create the "necessity" which the proviso declares shall exempt the company from liability for the moving of such defective cars.

This case was appealed by the carrier and is now pending in the Circuit Court of Appeals for the Sixth Circuit.

In *United States* v. *Atchison, Topeka & Santa Fe Railway Co.*, in the District Court for the Southern District of California, Southern Division, November 24, 1915, the court held that the law contem-

plates that there shall be handholds or grab irons on each side of each end of the car.

In *United States* v. *Northwestern Pacific Railroad Co.*, the District Court for the Northern District of California, Second Division, held that eight-wheel standard logging cars, although used exclusively in the transportation of logs, are comprehended within the terms of the acts, if the height of such cars from the top of rail to center line of coupling exceeds 25 inches; also that the liability of a common carrier for the penalty for permitting the use on its line of equipment not in conformity with the requirements of the acts is not confined to equipment operated by employees of that carrier, but extends to that used by private line over the former's line pursuant to a contract authorizing the latter to use the tracks of the former.

HOURS OF SERVICE ACT.

During the past fiscal year there were transmitted to the several United States district attorneys for prosecution 159 cases, involving 1,129 counts, of violations of the hours of service act.

Cases involving 628 counts were confessed and 390 counts were brought to trial during the year, resulting in verdicts in favor of the Government as to 224 counts and against it as to 112 counts, while the remaining 54 counts are still undecided.

Of the cases in the district courts, involving 97 counts, which were pending decision at the beginning of the past fiscal year, 2 were decided in favor of, and 26 against, the Government, while 69 counts are still pending decision.

There were 4 cases, involving 29 counts, argued before the several circuit courts of appeals, of which 18 counts were decided in favor of and 6 against the Government. The remaining 5 counts are pending decision.

At the beginning of the past fiscal year there were 4 cases, involving 126 counts, pending decision in the several circuit courts of appeals which have been decided, 66 counts in favor of the Government and 60 against it.

In view of the divergence of opinion in the courts as to the effect of releases during a tour of duty, in some of which the question is made one of fact to be submitted to the jury, as to whether such release is for a sufficiently long period to afford rest and whether it is a place which affords an opportunity for rest, it is obviously difficult for a carrier, there being no fixed and invariable standards by which the question may be decided, to determine when an employee may or may not be kept on duty for an extended period by reason of deduction to be made because of such release during the period within which duty has been performed.

JUDICIAL INTERPRETATION OF THE HOURS OF SERVICE ACT.

In *Chicago, Rock Island & Pacific Railway Co.* v. *United States*, 226 Fed., 27, decided by the Seventh Circuit Court of Appeals, it was held that switch tenders stationed at a shanty whose principal duty is to attend freight-yard switches, but who also regularly and habitually transmit by telephone information affecting train movements to levermen at an interlocking tower located at a point where there is a crossover for trains of another railroad, come within the class for whose service limits are established by the operators' proviso in section 2 of the hours of service act.

In this case the principal contest was whether the words "other employee who by the use of the telegraph or telephone dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements" are to be limited by the application of the *ejusdem generis* rule of construction to a class of which operators and train dispatchers are representatives.

In a case practically identical, *Missouri Pacific Railway* v. *United States*, 211 Fed., 893, the Eighth Circuit Court of Appeals had adopted that construction and the Missouri Pacific Railway decision had been followed by the fifth circuit in *United States* v. *Florida East Coast Railway Co.*, 222 Fed., 33. But the seventh circuit, in the *Rock Island Case*, refused to follow these decisions and held that the operators' proviso covered switch tenders whose duties were as described. The court said:

> Congress may well have deemed it unsafe to permit employees whose duty it is—not primarily or principally but ordinarily and habitually—to transmit such important orders, and in doing so to exercise whatever measure of skill, care, alertness, and attention the use of either telegraph or telephone requires, to work 16 hours, however simple or nonfatiguing their ordinary tasks may be. Furthermore, the class that includes only those whose principal duty is to transmit such orders by telegraph or telephone does not include all who concededly are within the proviso; an operator or train dispatcher may also be a station agent and his primary and principal duties may be in the latter capacity. If, unlike *United States* v. *Mescall*, 215 U. S., 26, the particular words "operators and train dispatchers" do not exhaust the class and thus make the rule of *ejusdem generis* inapplicable, the only all-embracing designation covering those concededly within the proviso is an employee who ordinarily and habitually used the telegraph or telephone for the purposes stated. Defendant's employees here in question come within this class.

The same court, in *Chicago & North Western Railway Co.* v. *United States*, 226 Fed., 30, in a somewhat similar case decided that towermen whose duties were to operate levers and switches and who also transmit and receive over the telephone orders pertaining to train movements come within the scope of the operators' proviso in section 2 of the act.

In *Elgin, Joliet & Eastern Railway Co.* v. *United States*, 227 Fed., 411, the same court, following *Northern Pacific Railway Co.* v. *United*

States, 213 Fed., 162, and *Oregon-Washington Railroad & Navigation Co.* v. *United States*, 222 Fed., 887, held that the failure by mistake or in good faith to include in its monthly report instances of excess service of its employees did not subject carrier to the penalty of $100 prescribed for each day's failure to file such a report. The court in this case said that the statutory penalty is provided "for the delay in filing the required report, not for omissions therefrom."

In *St. Joseph & Grand Island Railway Co.* v. *United States*, 232 Fed., 349, the Eighth Circuit Court of Appeals held that there was a violation of the act by a railroad which held on duty for more than 16 hours one of its engine firemen in connection with the movement of a work train operated wholly within a state, consisting of cars containing company material brought from another state to be used in repairing the railroad company's track, which was an interstate highway. Such fireman under the circumstances was engaged in interstate commerce.

In *Denver & Rio Grande Railroad Co.* v. *United States*, 233 Fed., 62, the Eighth Circuit Court of Appeals held that a

> carrier must use diligence to anticipate all the usual causes of delay incidental to railroad operation, and when any casualty occurs the carrier must still use diligence to avoid keeping its employees on duty overtime. Failure to perform either of those duties deprives it of the benefit of the proviso.

The court, however, held that derailment was not one of the usual causes incidental to operation, but came within the casualty proviso, whether caused by negligence or by accident.

But if a train is ordered out after a derailment has occurred, and the crew is delayed on duty in excess of the period fixed by the statute by mistake of an official's judgment as to the time necessary to clear the wreck from the track, the overtime service is due not to the derailment but to the ordering of the train out of its terminal before the wreck was cleared up. In this case the court also held that insubordination of an employee upon whom the duty rested to watch and care for an engine which was "tied up" was a "casualty" within the proviso in section 3 of the act which justified the retention of the fireman of the engine on duty in excess of 16 hours.

In *United States* v. *Baltimore & Ohio Railroad Co.*, 226 Fed., 220, it was held to be the duty of the carrier to report to this Commission the instances in which excess service of employee was justified by emergency. The court said:

> It was not intended that this additional service should be required save in an emergency, and it was clearly not within the spirit of the act that the employees should be the sole judges of when the emergency existed to warrant the extra service.

The court, however, held that there was no obligation on the carrier to report instances of excess service of crews of wrecking and

relief trains and that this applies to telegraphers assigned for duty at a wreck "whether they may be considered technically members of the crews of wrecking or relief trains."

The court in this case rendered judgment for the plaintiff for $400 against the contention of the Government that on the findings a judgment of $3,000 was mandatory and that there was no discretion in the court to fix any less penalty than that provided by section 20 of the act to regulate commerce. This case is now pending on appeal in the circuit court of appeals.

In *United States* v. *Atchison, Topeka & Santa Fe Railway Co.*, decided November 24, 1915, by the District Court for the Southern District of California, Southern Division, it was held that the hours of service act not only imposes upon the carrier a negative obligation, forbidding it from requiring or permitting an employee to remain on duty, but also imposes an affirmative duty to relieve such employee after 16 hours of service unless prevented from so doing by one of the excuses specified by the proviso of section 3 thereof; and that it is incumbent upon the carrier to show by proof that excess service of its train employees could not have been prevented by the exercise of that high degree of care consistent with the purpose of the act in the matter of its equipment and the practical operation of its road.

In *United States* v. *Baltimore & Ohio Railroad Co.*, decided December 2, 1915, by the District Court for the Northern District of Ohio, it was held that if, in the course of its journey, a train is delayed by a casualty, unavoidable accident, or act of God, or as the result of a cause not known to the carrier, or any of its agents in charge of the crew, at the time the train left its starting point, the company can not lawfully simply add such delay to the 16 hours which it might keep its crew on duty, but when such a delay from such a cause arises it becomes the duty of the company to exert itself in a highly energetic and diligent manner either to get its train through to its intended terminal within the 16 hours allowed by law, or to make arrangements to have the men of the crew relieved at the expiration of that time; that the burden of proof is upon the defendant to bring itself within the terms of the proviso of section 3 of the hours of service act, it having admitted that it required or permitted its train crew to be or remain on duty for a longer period than 16 consecutive hours; and that a carrier is not excused for keeping a train crew on duty beyond the 16-hour limit, unless it exercises a high degree of effort and precaution to prevent the men being so kept on duty after it or any of its agents discovers that the train is not likely to reach its intended terminal within the 16-hour limit.

In *United States* v. *Pennsylvania Railroad Co.*, decided December 24, 1915, by the District Court for the Western District of Pennsyl-

vania, it was held that a member of an engine crew in "pusher service," whose periods of work are comparatively short and therefore quite often repeated and who has during the day periods within which he is relieved from the performance of work and from supervision over engines, cars, or other instrumentalities, but is not relieved from the duty of attendance subject to call, is on duty during the time covered by such release periods, within the meaning of the hours of service act, because he is under duty of remaining within call when needed for further service.

In *United States* v. *Atchison, Topeka & Santa Fe Railway Co.*, 232 Fed., 196, the District Court for the District of New Mexico held that the act was not violated where the hours of service of a telegrapher in a continuously operated office was fixed at 10 hours, out of which he had one hour absolutely his own for meals, relaxation, and recreation.

In *United States* v. *Baltimore & Ohio Railroad Co.*, decided December 2, 1915, by the District Court for the Northern District of Ohio, Eastern Division, it was held that by the operators' proviso Congress intended to deal once and for all with operators, and that the casualty proviso of section 3 does not apply to them. The court said:

> It is very plain that only the first clause of the proviso in section 3 could possibly apply in terms to telegraph operators and that the remainder of the proviso is plainly inapplicable, this notwithstanding the decisions of the courts which hold to the contrary. I am persuaded that the Congress of the United States intended that when a man had been on duty as a telegraph operator for 17 hours that the danger to travelers and the danger to property which might arise from his being sleepy or tired or exhausted was so great that they did not intend for him to stay longer upon duty, and that the subject of telegraph operators and their hours of service are definitely controlled by the first proviso of the second section and are not included in the first proviso of the third section.

In *United States* v. *Virginian Railway Co.*, June term, 1916, the District Court for the Southern District of West Virginia, following *Missouri Pacific Railway Co.* v. *United States*, 211 Fed., 893; *United States* v. *Chicago, Milwaukee & Puget Sound Railway*, 219 Fed., 1011; and *United States* v. *Florida East Coast Railway Co.*, 222 Fed., 33, held that the operators' proviso in section 2 of the act was not applicable to conductors taking train orders over the telephone at offices and stations while en route. The court said:

> * * * It was the intention of Congress to embrace only that class of employees whose duties keep them continuously engaged during their hours of service in some particular tower, office, place, or station, and whose primary duties are to engage in dispatching or otherwise directing and controlling by order the movement of various trains over the railroad.

In *United States* v. *Illinois Central Railroad Co.*, decided June 20, 1916, by the District Court for the Northern District of Iowa,

Northern Division, it was held that where two telegraph offices are in close proximity at the same station, one operated during the day and the other during the night, they constitute together a continuously operated night and day office and the service of the operators is limited to nine hours. The court said:

> Whether the place where the employee is to perform this duty is in a station building or above it, or a short distance from it, or in all of them at different times during the same period of service, is quite immaterial. That may be arranged to suit the convenience of the carrier without making two separate and distinct places for the transmission and receipt of such orders, and whatever the arrangement may be in this respect, the carrier who adopts this method of transmitting and receiving train orders for trains passing such a station, may not lawfully permit or require the employee to be or remain on duty for a longer period than nine hours in the aggregate during a 24-hour period if the station is one continuously operated night and day for the transmission and receipt of such orders, or 13 hours at all such places operated only during the day.

In *United States* v. *Missouri Pacific Railway Co.*, decided June 19, 1916, the District Court for the District of Colorado held that the requirement of service of a railroad telegrapher at an office continuously operated night and day in excess of nine hours is not justified by such an unusual and extraordinary condition in railroad operation as to constitute an emergency within the meaning of the hours of service act, where such operator is kept on duty beyond nine hours, (*a*) to prevent delay of cars loaded with live stock, which cars should have been taken by an earlier train; (*b*) to facilitate movement of a valuable trainload of silk; (*c*) to report train delayed in reaching his station by reason of a drawbar "pulled loose" from the tender of the locomotive drawing such train; (*d*) to report a train delayed on account of broken packing rings in one of the cylinders of the engine hauling the train; (*e*) to handle mail and care for passengers of trains delayed in reaching the operator's station on account of various and sundry reasons for delay en route; (*f*) to report passenger train delayed en route by failure of air pump on engine; (*g*) because of shortage of coal in coal chute caused by negligence of train dispatcher; (*h*) because of train delay caused by loss of relief valve of the superheater of the engine, and also to heavy wind, snow, cold weather, and badly clinkered fire; that holding operator on duty overtime by reason of train delayed in reaching his station on account of wreck which it could not pass until track had been cleared is not a violation because facts stated entirely relieve carrier from penalty; that where intermissions from employment were so short, as one to two hours, and variant from day to day as to when intermission is taken, it becomes a question of fact as to whether or not such intermissions were not mere subterfuges resorted to for the purpose of evading the act and

not really for the purpose of giving the operator time off duty; and that the 24-hour period specified in the act begins when an employee begins duty and not at any time the employee is at work selected arbitrarily by the Government.

MEDALS OF HONOR.

The investigation of applications for medals of honor under the act of February 23, 1905, has been continued. This act authorizes the President to bestow bronze medals of honor upon persons who by extreme daring endanger their own lives in saving, or endeavoring to save, lives from any wreck, disaster, or grave accident, or in preventing, or endeavoring to prevent, such wreck, disaster, or grave accident upon any railroad within the United States engaged in interstate commerce.

Since the passage of this act 29 applications for medals have been filed, 20 of which have been approved and medals awarded, and 9 have been denied. During the past fiscal year 3 medals have been awarded and 1 denied.

INVESTIGATION OF ACCIDENTS.

During the year ended June 30, 1916, 55 collisions and 30 derailments, a total of 85 train accidents, were investigated by the Commission. These accidents resulted in the death of 209 persons and the injury of 1,441 persons. Of these casualties, collisions caused the death of 153 persons and the injury of 1,121 persons; derailments caused the death of 56 persons and the injury of 320 persons.

Twenty-six of the collisions occurred on lines operated by the block system, 11 in automatic block signal territory, and 15 in manual block signal territory; 29 of the collisions occurred where no block system was in effect, 22 on lines operated by the train order system, and 7 in yard and similar locations.

The investigation of collisions occurring in automatic block signal territory during the past year has demonstrated the imperative need of a revision of the rules and a change in the practices pertaining to the observance of caution signal indications. Under existing rules when a distant signal displays a caution indication an engineman is not positively required to reduce speed at once, the only requirement being that he shall approach the next signal with his train under control and prepared to stop. Frequently no reduction of speed is made when a caution signal indication is displayed; the investigation of one serious rear-end collision during the past year disclosed that the following train had been running under caution signal indications for a considerable distance without any reduction in speed; the preceding train had stopped only a short distance in advance of

a home signal, and when the danger indication of that signal was recognized by the engineman of the following train he was too close to the signal to bring his train to a stop before passing it or in time to avert the collision.

The indication of a distant signal should convey an order to the engineman as positive and definite as the indication of the home signal. The home signal at danger means "stop"; this is a positive order, requiring an engineman to act immediately. It is extremely desirable from the standpoint of safety that the caution indication of a distant signal should require an engineman to reduce speed at once and approach the next signal with caution prepared to stop.

Immediate reduction of speed at a caution signal would reduce the danger of collisions similar to the one described, as well as the danger of shock and injury to passengers resulting from emergency applications of the brakes; it is also desirable from the standpoint of economy which would follow from smoother handling of trains and consequent reduced wear and tear on train equipment. The enforcement of such a requirement would also create a different habit of thought on the part of enginemen, relieving certain nervous tension and insuring that the train could be stopped safely if the next signal was in danger position. In addition, such a practice would give the flagman more time and better opportunity to protect his train whenever it was unexpectedly stopped. Only by requiring the engineman to take positive action at the point of indication can safety be assured.

Six of the collisions investigated which occurred in automatic block signal territory were caused by failure of enginemen to obey signal indications. Five of these collisions occurred on multiple track road where the block signal equipment was modern and of the most highly approved type. In previous annual reports and in numerous reports upon accident investigations attention has been directed to the necessity for some form of automatic train control device to supplement block signal apparatus. It is encouraging to note that railroad managements are apparently giving serious consideration to the necessity for developing devices of this character to meet their operating requirements.

One rear-end collision was made possible by the lack of a preliminary setting circuit for a switch indicator, under which condition a train was permitted to enter a block section from a siding at the same time that a following train on the main line entered the preceding block section and received a clear instead of a caution automatic block signal indication.

One head-end collision on a single-track road where controlled manual block signals were in use was caused by a false clear indication of an electric dwarf signal, due to the signal control relay being energized by foreign current.

The investigation of accidents on a number of roads where the manual block system is in use has disclosed lax observance of rules and dangerous operating practices. On one road where a particularly bad condition was found no attention seemed to be paid to the rules under which the block system is supposed to be operated. On other roads where the manual block system is used, the investigation of accidents has disclosed that the benefits of the block system have been practically nullified by inexcusably bad operating practices. Many of the collisions investigated which occurred in manual block signal territory would undoubtedly have been prevented by the observance of proper rules for the operation of trains under the manual block system. It is obvious that the benefits provided by a manual block signal system can be secured only when such rules are enforced and rigidly adhered to.

The greater number of collisions investigated which occurred outside of block signal territory were caused by failure to deliver, understand, or obey train orders, and by trains occupying the main track, without authority, on the time of superior trains. Undoubtedly, had a proper form of block signal system been in use, many of these accidents would have been averted.

Of the 30 derailments investigated during the year 13 were caused by breakage or failure of rails, wheels, and other parts of equipment. The investigations have disclosed that there are some accidents due to failure of material used in track or equipment which may be prevented by more careful inspection, while others can not be prevented by inspection, as the defects are not disclosed until the material has failed.

Several special investigations have been conducted to determine the specific causes of failure where fractures of rails or equipment occur, and the results of these investigations have been fully described in printed reports covering investigations of accidents due to failed material.

There were seven derailments investigated during the year which were due to unsafe conditions of track and roadway, and conditions of this nature are still too common. Four derailments investigated were due to excessive speed, one was caused by improper loading, two by washouts, one by a snowslide, one by malicious tampering with a switch, and in one case the cause was not determined.

As noted in previous reports, there is need of legislation requiring the standardization of operating rules. In November, 1915, the American Railway Association adopted a revised code of train, block signal, and interlocking rules, which is in many respects an improvement over the code which it displaced. Were the standard rules of the American Railway Association uniformly observed by the railroads, undoubtedly increased safety in

train operation would result; but it is believed that uniformity in the codification and application of operating rules, which is extremely desirable in the interests of safety, can be secured only by federal legislation.

INVESTIGATION OF SAFETY DEVICES.

Under authority of the act of October 22, 1913, experimental tests have been conducted during the past fiscal year of three automatic train-control devices and one air-brake system. Reports regarding one of the train-control systems tested and the air-brake system have been submitted to the Congress. Further tests of the other two automatic train-control devices mentioned, which it is expected will be conducted during the present fiscal year, must be made before complete reports regarding these devices can be prepared. Preliminary arrangements have also been made for conducting experimental tests of one other train-control system.

During the past fiscal year the plans of 165 devices were examined and opinions thereon transmitted to the proprietors; 9 of these devices were considered to possess merit from the standpoint of safety, and experimental tests of certain of these devices are necessary in order to determine their practical utility.

The annual statistical report for January 1, 1916, containing the block signal statistics, indicates a net decrease during the year of 33 miles of road operated by the block system. That report, which contains the latest official figures available, indicates that there are less than 100,000 miles of railroad in the United States operated by the block system. The Commission has repeatedly urged enactment of a law by the Congress which would require railroad companies to adopt the block system on all their passenger-carrying lines.

DIVISION OF LOCOMOTIVE BOILER INSPECTION.

During the year ended June 30, 1916, the work of this division has been materially changed and increased by the act of March 4, 1915, Public No. 318, Sixty-third Congress, amending the locomotive boiler inspection law by making its provisions apply to and include the entire locomotive and tender and all parts and appurtenances thereof, which has presented additional important problems for consideration.

Before a reasonable and effective administration of the law could be inaugurated, rules and instructions covering the additional requirements imposed by the amended act had to be established as provided in section 5 of the locomotive boiler inspection law.

At the expiration of the period provided by the law for filing with the chief inspector rules and instructions for the inspection of locomotives and tenders, a committee representing the carriers filed a

proposed code as a basis for discussion only and expressed a desire that the chief inspector prepare a suitable code of rules as provided in section 5 of the law, to be submitted to the Commission for approval.

In accordance therewith rules and instructions for the inspection of locomotives and tenders were prepared under the direction of the chief inspector, who, following the usual custom, initiated conferences with representatives of the railroads and representatives of the employees, at which the rules thus prepared were discussed and later submitted to and approved by the Commission.

The enforcement of these rules required no material change in the form of the organization as originally established; the districts were already arranged, headquarters fixed, and inspectors assigned under the boiler inspection law, so that the administration of the law could proceed with comparatively little delay or expense.

It did, however, cause a substantial increase in the work of the inspectors, which is reflected by the number of locomotives inspected during the year. This is due to the additional parts of the equipment which must be inspected, and to the increased number of accidents which must be investigated that were not covered by the original act. Much of what might be termed educational work has also been performed, so that railroad inspectors and officials might have a correct and uniform understanding of the requirements.

Checking and recording reports, transcribing and transmitting to railroad companies statements of defective or improper conditions reported by our inspectors, with necessary correspondence in connection therewith, similarly increased the office work of this division.

These matters are all being taken care of in their turn, and the administration of the complete locomotive inspection law is being diligently and carefully worked out in a way that avoids expense to the carriers, except that which is necessary to properly maintain their locomotives.

Section 2 of the amended act also provides that all inspectors and applicants for the position of inspector shall be examined touching their qualifications and fitness with respect to the additional duties imposed by this act.

All inspectors who were then in the service creditably passed the examination.

A statement of all accidents resulting from failure of locomotive boilers and their appurtenances which occurred during the year and of all accidents resulting from failure of any part of locomotives or tenders which occurred since the law became effective is given on the following page.

As the work of this division now embraces the entire locomotive and tender and all parts and appurtenances thereof, it has been

found advisable to make tabulations of accidents, injuries, and defects found to conform thereto, and to discontinue the comparative tables of accidents as shown in former reports which were confined to accidents due to defective boilers.

A summary of the tabulated data contained in the report of the chief inspector for the fiscal year ended June 30, 1916, which is published separately, and which includes inspections of all parts of locomotives or tenders and accidents resulting from failure thereof since the amendment became effective, follows:

Number of locomotives inspected	52,650
Number found defective	24,685
Percentage found defective	47
Number ordered out of service for repairs	1,943
Number of accidents	537
Number killed	38
Number injured	599

The following table shows the total number of persons killed and injured by failure of locomotive boilers or their appurtenances during the year ended June 30, 1916, and by failure of any part of locomotives or tenders since the amendment became effective, classified in accordance with their occupations:

	Killed.	Injured.
Members of train crews:		
Engineers	11	205
Firemen	12	225
Brakemen	9	74
Conductors	1	6
Switchmen		6
Roundhouse and shop employees:		
Boilermakers	1	11
Machinists	1	11
Foremen	1	3
Inspectors		3
Watchmen		8
Boiler washers		10
Hostlers		6
Other roundhouse and shop employees	1	21
Other employees		7
Nonemployees	1	3
Total	38	599

Briefly summarizing the accidents, and casualties resulting therefrom, caused by failure of locomotive boilers and their appurtenances only, for the purpose of comparison, it shows that there were 352 such accidents, with 29 killed and 407 injured thereby. This is a decrease over the preceding year in the number of accidents and in the number of casualties, but an increase in the number killed. This increase in the number of fatalities is due almost entirely to one single class of accidents, viz, crown sheet failures due to low water where contributary causes or defects were found, and forcibly emphasizes the importance of properly maintaining water gauges and boiler feeding appurtenances.

It is true that during the period covered by this report unprecedented traffic conditions existed and every available locomotive was pressed into service. The sworn inspection reports filed with the chief inspector show that more than 6,000 locomotives, which were in storage the preceding year, were in use during the year covered by this report under service conditions which in some instances perhaps made proper maintenance difficult. This, however, is not justification for any carrier to operate a locomotive in a condition that adversely affects the safety of employees and travelers.

A total of 653 applications for extension of time for removal of flues, as provided in rule 10, were filed during the year ended June 30, 1916. Investigation disclosed 103 of the locomotives in such condition that no extension could properly be granted; on 79 locomotives the conditions were such that the full extension asked for could not be granted, but an extension for a shorter period was allowed. Sixty-three extensions were granted after defects disclosed by our inspections had been repaired; 43 applications were withdrawn. The remaining 365 were granted as requested.

During the fiscal year covered by this report there was a decrease of 41 per cent in the number of applications for extension of time for removal of flues, which indicates that more careful inspections are being made by the carriers before filing applications for such extension.

The order of the Commission of June 9, 1914, fixing the minimum factor of safety for old locomotive boilers, requires all such boilers to be brought up to the established standard within certain definite periods, those with the lowest factors being taken care of first.

Alteration reports filed as required by rule 54 give the division of locomotive inspection a complete check on this work and indicate that, with few exceptions, satisfactory progress is being made by the carriers in complying with the requirements, and that all boilers will be brought up to the established standard within the limits set.

The alteration reports also disclose instances in which improper repairs are made before failure occurs and have brought about practically standard methods of repairing defects which affect the factor of safety.

A large majority of the carriers are diligent in their efforts to comply with the requirements of the law and are sincerely cooperating with the division of locomotive inspection with that end in view, and in such cases the beneficial results are particularly noticeable.

A few carriers have attempted to place the burden of inspecting their locomotives upon the Government by continuing to use defective equipment until it was found and ordered out of service by federal inspectors, which has resulted in some instances in consid-

erable inconvenience to shippers. While this is to be regretted, it can not be permitted to influence action where evidence is found of a disposition to use locomotives that are defective and in violation of the law.

DIVISION OF VALUATION.

It was stated in our last annual report that the engineering forces of the Commission engaged in valuation work had been expanded as far as was thought advisable and that those forces if maintained as then existing should cover from 45,000 to 50,000 miles of road per annum. For the last year the field engineering forces have been maintained at that point and from October 1, 1915, to September 30, 1916, covered 50,840.38 miles of road.

There are in the United States about 1½ miles of tracks of all kinds for each mile of road, so that 50,000 miles of road would call for 75,000 miles of all tracks. In fact, the track mileage covered during this year was 77,348.51, thus indicating that the properties under survey were of at least average difficulty.

If the same rate of progress should be maintained in the field for the future as during the past year, our road and track surveys should be completed by January 1, 1920. Some parties will complete their assignment before this and some after, but this should be about the average. There will still be a certain amount of field work to be done in connection with mechanical and structural work, but this probably will not require much time nor a considerable force.

Our computing forces have during the same year assembled, ready for pricing, about the same number of miles. These are not, however, the same miles, since there is of necessity a considerable interval between the completion of the field work and the completion of the office work. Taking the country as a whole, there is probably a lag of six months between the field and the office work.

It will be seen, therefore, that our forces have inventoried and computed for pricing approximately 50,000 miles of road during the last year, and that at this rate of progress the field work should be completed in slightly over three years and the office work in from six months to a year afterwards.

The application of prices and the writing out of the final assembly sheets is a comparatively short and inexpensive task when the prices have been determined. The ascertainment of the prices themselves has proved to be a more extensive work than was anticipated.

All the principal carriers were required to report actual prices paid by them for railway material and labor during the 5 years and in some instances during the 10 years preceding June 30, 1914. These returns were exceedingly voluminous and it has been a very considerable task to compile the information thus furnished.

The prices thus obtained are those paid by the railroad and do not include the cost of putting the article in place as a part of the railroad. The ascertainment of this cost is much more difficult than the determination of the unit price. As bearing upon the expense of installation, many actual transactions have been analyzed and examined and this has required more time than was expected.

The statute requires that when a tentative valuation has been reached notice of the valuation so placed upon the various classes of property shall be served upon the Attorney General of the United States, the governor of the state in which the property is situated, the carrier itself, and such other parties as the Commission may designate. Thirty days are allowed interested parties in which to object to the tentative valuation as fixed by the Commission. Subsequently we must hear and decide the questions raised by these protests.

There are many fundamental questions common to the valuation of all railroad properties which will be raised by objection to these tentative valuations and which must be decided before we can make up and transmit to Congress a final valuation. Since the act gives to all interested parties the right to be heard, we have not felt justified in reaching or announcing a conclusion upon these matters in advance of our hearings upon these tentative reports.

Certain tentative valuations have been served and the questions raised by the protests to them will be heard and decided in due course. Since many of these questions are common to all properties, their decision in these first cases may be controlling in other cases.

As soon as these fundamental questions have been passed upon there is no reason why tentative valuations can not be completed and served at substantially the same rate that our field work proceeds. The rapidity with which valuations can be made final and reported to Congress must depend upon the number and character of the objections which are made to the tentative valuations.

LAND.

The road mileage of our land forces has never equaled, and does not yet equal, that of the engineering section, but our land force is being somewhat increased, its efficiency is improving, and it is expected that land values will be ready for application in all cases as soon as the work of our engineers is completed.

TELEGRAPH AND TELEPHONE.

Our last report stated that the field parties then in service in the telegraph branch were covering about 6,000 miles of pole line per month and that the same number of parties would probably be main-

tained for the future. This has been done, and for the year from October 1, 1915, to September 30, 1916, 74,124.09 miles of telegraph pole line was inventoried.

The original intention was to push to a speedy completion our work upon telegraph properties, but it has been found impossible to obtain from the telegraph companies the information which must precede the making of a proper inventory, and it is also found more convenient to carry on our telegraph work in connection with our engineering work upon the railroad with which the telegraph is usually connected. It is probable, therefore, that about the same force will be maintained in the future as is now in service and that this force will show about the same rate of progress.

DIVISION OF INDICES.

During the year ended October 31, 1916, this division has prepared the index digests to volumes 36, 37, 38, 39, and 40 of the reports of the Commission, together with the table of cases reported therein, the table of cases cited, and the lists of commodities and localities involved in these cases. It has also prepared for these volumes a list of the cases disposed of without printed reports, such as cases dismissed for want of prosecution or on motion of complainant.

All state and federal decisions construing the act to regulate commerce and acts supplementary thereto or amendatory thereof, as well as state and federal decisions involving a construction of the commerce clause of the Constitution or touching the powers or duties of the Commission have been indexed.

An index digest, together with a table of cases, table of cases cited, and a list of commodities and localities for all unreported opinions, 2,249 in number, has also been prepared.

This division also maintains a comprehensive current index by subject matter, commodity, locality, and docket number of all decisions that have been rendered by the Commission.

LIBRARY.

The library contains approximately 13,500 bound volumes and 10,500 pamphlets, exclusive of books and pamphlets in the various divisions. In addition to works on transportation and special collections of congressional, departmental, and foreign documents, the library has a law collection consisting of the standard sets of federal and state decisions, digests, statutes, encyclopedias, and treatises.

The library is being rapidly catalogued according to Library of Congress methods by an expert cataloguer, and the card catalogue now contains 16,960 cards. The entire bound collections of general and special treatises on transportation, economics, finance, engineering, encyclopedias, and other works of reference, numbering in all

3,140 volumes, have already been catalogued. Of the collection of pamphlets dealing with the above-mentioned subjects, four-fifths, 1,318 in number, have also been catalogued. The remainder of the collection is so arranged as to be fairly accessible. The principal collections remaining uncatalogued under the new system are: Law reports, law treatises, Government and departmental documents, state railroad commission reports, railroad club and association publications, periodicals, and foreign documents.

THE PANAMA CANAL ACT.

The amendments to the act to regulate commerce which were effected by the passage of the Panama Canal act prohibit a railroad company or other common carrier subject to the act from owning, leasing, operating, controlling, or having any interest, directly or indirectly, in any common carrier by water or any vessel carrying freight or passengers with which said railroad or other carrier does or may compete for traffic. It is provided that if the Commission shall be of opinion that such service by water, other than through the Panama Canal, is operated in the interest of the public and is of advantage to the convenience and commerce of the people, and that a continuance thereof will neither exclude, prevent, nor reduce competition on the route by water, it may by order extend the time during which such service by water may continue to be operated.

In interpreting these provisions we have held that the competition or possibility of competition referred to is not a vague, indefinite, or remotely possible competition, but something real and substantial. We have felt that where the competition or possible competition was remote, improbable, or negligible, and where the service was being operated in the interest of the public, and was of advantage to the convenience and commerce of the people, and a continuance thereof would neither exclude, prevent, nor reduce competition on the route by water, we should permit such continuance. But where the competition is real and substantial and it is not clearly shown that a continuance of the service will neither exclude, prevent, nor reduce competition on the route by water we have no power to abate the prohibition against such continued common ownership, control, or operation.

Cases of this kind have come forward and are now pending in which the competition is real, substantial, and not denied, but in which there is abundant testimony on behalf of shippers and shipping interests generally in the territory served, frequently not contradicted in any degree, to the effect that the service is in the interest of the public and of advantage to the convenience and commerce of the people, and that a discontinuance thereof would be substantially injurious to them and to their localities instead of working any public benefit.

Examples of these cases are:

The Pennsylvania Railroad Co. indirectly owns and operates certain steamship lines plying upon Chesapeake Bay and tributary rivers on the eastern shore of the bay. These boats compete for traffic at various points with railroads which are also owned or controlled by the Pennsylvania Railroad Co. After full hearing we decided that continued operation of these boats under ownership by the Pennsylvania Railroad would be in violation of the act and denied its application. When, pursuant to our order, notice was given of a discontinuance of the water service, shippers generally who had been and were being served by the water lines, including some of the original opponents of the application for permission to continue ownership and operation, petitioned for a rehearing and strongly urged that a continuance of the common ownership, control, and operation be permitted for another year at least. In this connection it was asserted that there was no one prepared to take over and operate the boats, no prospect of any service being furnished in lieu of that which had been and was being performed by the railroad-owned boats, and that the discontinuance of the railroad ownership and operation would seriously injure the communities, individuals, and firms which had patronized and to a large extent depended upon the boat-line transportation.

Among the applications involved in the Lake Line Cases was that of the Grand Trunk Railway Co. of Canada for permission to continue ownership and operation of the Canada-Atlantic Transit Co. The stock of this water line is owned by the applicant. Its boats operate between Chicago, Ill., and Milwaukee, Wis., on the west, and Depot Harbor, Canada, on the eastern shore of Georgian Bay, at which point they connect with a railroad which is also owned by the Grand Trunk. A rehearing was granted in this case, which presents some international questions, and upon the rehearing literally hundreds of shippers and representatives of shipping interests testified that the boat-line service is in the interest of the public and of advantage to the convenience and commerce of the people; that if it is discontinued there is nothing to take its place; and that the communities that have been and are being served via that route will lose all of the advantages of the water route and of a competing route, while no advantage will accrue to any interests, localities, or persons.

The New York, New Haven & Hartford Railroad System is made up of various formerly independent lines of rail and water carriers. By purchases and consolidations the New Haven company has become the owner of various water lines, operated mainly between New England points and New York Harbor, which compete directly with its rail lines between the same points. There is no question as to the competition, but the record is replete with evidence from ship-

pers and representatives of communities in New England to the effect that the service is in the interest of the public, is of advantage to the convenience and commerce of the people, and if the present ownership and operation is discontinued there will be no reasonably adequate service to take its place and the communities will be deprived of the benefits of the water transportation and the competing routes, thus inflicting upon them irreparable injury and benefiting no one.

We think that these facts should be brought to the attention of the Congress, so that in the light of those facts it may determine whether or not authority shall be conferred upon the Commission to permit, in such cases and under such circumstances, a continuance of the railroad ownership, control, or operation of the water lines, subject to such further and different orders as the Commission may subsequently enter upon a further hearing and a showing of substantially changed circumstances and conditions.

SUSPENSION OF SCHEDULES.

We call attention to the advisability of changing the periods for which the Commission can suspend the operation of a proposed new schedule, suggesting that in lieu of the two periods now provided, the first being too short within which to dispose of any important case, thus necessitating in most cases the preparation and service of supplemental suspension orders, there be provided one period of one year.

If the above-mentioned change is made it should, we think, be supplemented by a provision requiring the carriers to give not less than 60 days' notice of increased rates or charges. Under such a notice those who are affected by the charges would have more opportunity to ascertain accurately the effect of the proposed new schedule and to determine whether or not they ought to protest it; they would have more opportunity within which to properly prepare their protests and the reasons therefor; the carriers would have more time within which to present their reasons in support of the proposed schedules; and the Commission would have more time within which to determine whether or not it would suspend the schedules. It not infrequently happens now that schedules are suspended on the strength of protests filed a short time before the schedule is to become effective, and later protestant learns that he was not fully informed or advised and withdraws his protest. It has been our practice, in important cases and where the time before the effective date of the schedule permitted, to hear the parties informally on the question of whether or not the schedules should be suspended, but in the great majority of cases there is not time for such proceeding.

INTIMIDATION OF WITNESSES.

There is no provision of existing law making it an offense for a person to intimidate or threaten a witness who is about to give testimony before the Commission. Recent occurrences suggest that section 12 of the act should be so amended as to make punishable any efforts, by intimidation, threats, or inducements of any kind, to influence the testimony of any witness or to prevent any person from testifying before the Commission.

Although the Commission, in the conduct of formal hearings and arguments before it, is exercising a function that is quasi judicial in character, it has no means or power for enforcing order or securing the punishment of persons who may interfere with the orderly conduct of its proceedings. Section 12 of the act gives the Commission authority to issue subpœnas and provides that in case of contumacy or refusal to obey a subpœna of the Commission any district court having jurisdiction may issue an order requiring such obedience and may punish any failure to obey such order as a contempt. It is recommended that provisions should also be made that in case of misbehavior by any person at any formal hearing or argument before the Commission or so near thereto as to obstruct the orderly conduct of such proceeding, or in case of contumacy of any witness or other person in the course of any such proceeding before the Commission, the Commission may relate the facts to any district court having jurisdiction with the request that such person be found in contempt of the Commission and, in case such court finds that the conduct complained of amounts to contempt, that such district court shall have power to order punishment for such contempt.

TRESPASSING.

We desire to call the attention of the Congress to the matter of trespass on the trains and rights of way of carriers. Figures compiled from the monthly reports of accidents resulting from the operation of steam railways in the United States are shown in the table below. From them it appears that more than 5,000 trespassers were killed in such accidents during the year ended June 30, 1916. This number is more than 56 per cent of the total number of persons killed in railway accidents of all classes resulting from the operation of trains, locomotives, and cars during the year, and it represents a loss of life for which laxity in the enforcement of the law seems to be largely responsible. Of the trespassers killed only 23 per cent were on trains. Of the 77 per cent not on trains a large proportion were trespassing on the right of way, 989 being struck or run over by locomotives or cars at stations or in yards, 88 at highway grade crossings, and 2,581 at other places along the tracks. Our investigations of ac-

cidents disclose instances in which it is morally certain that serious accidents to trains have been caused by malicious acts of trespassers. While 13 states have legislated upon the subject of trespassing, it appears to be difficult to secure the enforcement of such laws, and carriers thus fail to obtain the protection in this regard which the public welfare demands. Entirely aside from considerations of humanity and the general welfare of the community, the fact of these trespasses and the necessity of being on the lookout for them amounts to an appreciable burden on interstate commerce. We believe that the matter is of sufficient importance to warrant a consideration of the advisability of enacting a Federal statute prohibiting, under appropriate penalty, trespasses on the trains of interstate carriers, and on the tracks of such carriers at places where there are two or more tracks, or within the limits of incorporated towns, or at places where the carrier by appropriate sign or warning gives notice that trespassing on its tracks is prohibited. Any such statute should, however, provide that nothing therein is intended to make lawful any trespass which would be unlawful under state laws. It might be that Congress could confer concurrent jurisdiction upon federal and state courts for the enforcement of any statute which might be enacted upon this subject.

Trespassers killed or injured by steam railways in the United States during the year ended June 30, 1916.

Kind of accident.	Number of persons killed.				Number of persons injured.			
	Trespassers on trains.		Trespassers not on trains.		Trespassers on trains.		Trespassers not on trains.	
	Employees.	Non-employees.	Employees.	Non-employees.	Employees.	Non-employees.	Employees.	Non-employees.
Collisions	.....	16	.....	3	2	14	.....	.....
Derailments	1	63	.....	1	2	101	.....	4
Other train accidents	.....	.....	.....	1	.....	.....	.....	.....
Coming in contact, while riding on cars, with overhead bridges, etc	2	44	.....	.....	6	103	.....	.....
Falling from cars or engines	13	488	.....	.....	20	525	.....	.....
Getting on or off cars or engines	21	445	4	151	133	1,455	16	371
Other accidents on or about trains	.....	41	2	32	14	274	7	117
Being struck or run over by engines or cars at stations or in yards	2	8	42	947	1	2	27	892
Being struck or run over by engines or cars at highway grade crossings	.....	2	3	85	.....	.....	1	83
Being struck or run over by engines or cars at other places	1	7	67	2,514	3	3	38	1,165
Total	40	1,114	118	3,734	181	2,477	89	2,632

CAR SHORTAGE.

Whenever business generally is good and times are prosperous there is widespread difficulty and complaint due to inability to secure satisfactory transportation services from the railroads. This diffi-

culty recurs during the fall and winter months of practically every year with regard to transportation of coal, and usually in connection with the movement of grain when the crops are good. These situations are generally spoken of as "car shortage" periods. The shippers' inability to secure promptly all the cars they would like to load has been attributed to so-called "car shortage." This expression by no means indicates the whole trouble. While it is true that the shippers can not get the cars they would like to have for loading, it is equally true in many instances, if not generally, that if the number of cars available for loading were doubled or trebled the situation would thereby be made worse, due to the fact that the additional number of cars loaded could not be promptly transported, and to inadequacy and congestion of terminals, which congestion, in turn, is due in part to failure of consignees to promptly receive and remove their freight.

The original custom of transferring freight from car to car at junction points of railroads, thereby keeping each road's cars on its own lines, was long ago abandoned in the interests of economy and good service, and was superseded by a practically universal custom of allowing cars to go through to destination under a plan arranged between the railroads for compensating each other for the use of cars on the basis of the miles cars were so used. This plan, in turn, was superseded by an arrangement for compensation on a per diem basis. Rules were adopted by the carriers which had for their purpose insuring prompt return of cars to the owning road. Fines were provided as penalties for misuse of another carrier's equipment or for loading it except in the direction of home.

When business is comparatively light and there is an abundance or surplus of equipment and the transportation facilities and terminals of the carriers are not overtaxed, these rules are quite generally observed, but when business is heavy and shippers are clamoring for cars they seem to be entirely ignored, and, so far as we are advised, no effort is or has been made to assess the penalties provided in the rules for misuse of equipment. As a result, the railroad that originates a large volume of outbound tonnage, such as grain or coal, finds its cars going rapidly off its line and it and its shippers faced with a "car shortage," which continues to the inconvenience and substantial loss of that railroad and the shippers served by it until the season comes to a close or the period of "car shortage" has passed. It is undoubtedly true that under these practices the railroad that has liberally provided itself with cars, tracks, and motive power with which to serve the shippers on its line is unable to properly serve those shippers or to get the benefit of its investment in equipment and the use of its facilities, while another railroad, that has neglected to reasonably provide itself with equip-

ment, is using the cars of the roads that have so provided themselves and that are suffering through the absence and misuse of their cars.

This subject has come before us from time to time and in many ways. Usually the shippers or consignees complain informally of inability to secure cars for loading or prompt delivery of freight, and request us to "do something" to relieve them; frequently it is an informal complaint of one railroad against another. We have invariably undertaken to use our good offices in clearing up or alleviating the cause for such complaint. Sometimes we have found that the complaints are due to misunderstanding or are not well founded, but in the main they are well founded.

An acute situation of congestion and "car shortage" existed in the fall of 1906, as to which, in addition to the Commission's efforts to be helpful through correspondence and personal conferences, formal hearings were had and were reported upon in 12 I. C. C., 561. This inquiry was primarily responsive to numerous complaints of a "coal famine" in North Dakota. It there appeared that the principal roads serving that territory, although they had largely increased their equipment, were unable to move out as large a volume of the grain crop as they had moved in corresponding months of previous years or to move in the desired quantities of coal. It is true that this was due in a considerable measure to extremely severe weather, but presidents of the roads referred to frankly admitted that they had more business than they could handle. One of them said that they were "trying to force a 3-inch stream through a 1-inch nozzle"; another one said that the railroads of the country "have not kept in sight of the country's growth," and that his road, as well as many others, was "endeavoring to bore a 1-inch hole with a half-inch auger."

Evidence was taken relative to conditions at widely separated points, such as San Francisco, Galveston, New Orleans, Chicago, the West Virginia coal fields, the grain fields of Iowa, Nebraska, Kansas, and Oklahoma, and the lumber-producing regions of Oregon, Washington, and various southern states. Substantially all told the same story of failure of transportation facilities and resulting commercial embarrassment and loss. It abundantly appeared that the movement of loaded cars was in the main and on the whole very slow. The time of movement of cars of grain from Iowa points to Chicago was shown to be as low as 2 days and as high as 25 days, the greater part taking from 4 to 8 days. Serious delays to loaded cars in switching to points of unloading in large terminals and in passing through such terminals for shipment out to other cities explained much of the failure in car service. Proposals submitted by shippers varied "from the all-inclusive proposition of Mr. Hill that the railroads of the

country must invest over $5,000,000,000 for enlargement of facilities upon roads now existing, to the enactment of a law by Congress which shall compel the payment by railroads of a penalty for each day's delay in furnishing cars and transporting cars after loading."

The practice of carriers in permitting reconsignment of cars and the extent to which shippers availed themselves of reconsignment was shown to be a strongly contributing cause for the slow movement of freight and shortage of cars. An operating official of a western road expressed the opinion that, because of competition for traffic between carriers, which would prevent its common adoption and enforcement, it would be impossible for the carriers to put into effect a general rule limiting the time allowed for reconsignment, but that some superior authority should establish such rule to be imposed universally and which it should be a violation of law to disregard. In our report we said:

> While the railroads may fix the price that shall be charged for the use of their cars by other roads, it may become advisable for the protection of those roads which, realizing their duties as common carriers, furnish themselves with adequate equipment, that power be vested in this Commission to make rules governing the interchange of cars and that Congress also enact a penal law under which railroads may be punished for confiscation of foreign equipment. It is submitted that the carriers themselves can not deal with this problem by raising the per diem charge without seriously limiting the extent and utility of through transportation, a contingency that would demoralize the business of the country. That this matter of securing the return of cars to their owners is not one to be regarded indifferently is made evident by the fact that railroads having 10 per cent of the total mileage in one of the states rely "entirely" for equipment upon foreign cars.
>
> * * * * * * *
>
> If the Interstate Commerce Commission is to be vested with power to make rules under which railroads shall be required upon penalty to furnish cars to shippers, this Commission should also be empowered to make rules under which free interchange of cars shall be effected or to require railroads engaging in interstate commerce to make such rules for their own protection and provide for their enforcement.

Section 1 of the act requires carriers "to establish through routes and just and reasonable rates applicable thereto; and to provide reasonable facilities for operating such through routes and to make reasonable rules and regulations with respect to the exchange, interchange, and return of cars used therein, and for the operation of such through routes, and providing for reasonable compensation to those entitled thereto."

In *Missouri & Illinois Coal Co.* v. *Illinois Central R. R. Co.*, 22 I. C. C., 39, we decided a complaint growing out of the issuance of a rule by the railroad company prohibiting the sending of its coal cars loaded with coal to the lines of certain designated carriers. The purpose of this rule was to retain on its own line cars deemed sufficient to serve the communities which were dependent upon it for

fuel. We held that the act requires railroads to serve through routes which they have established with other carriers, regardless of the fact that such service might require the movement of their cars beyond their own lines. We held also that carriers are required to make reasonable rules and regulations with respect to the exchange, interchange, and return of cars under through routes, and that where they fail in this respect the Commission has authority to determine the individual or joint regulation or practice that is just, fair, and reasonable.

The Commission is empowered to prescribe reasonable maximum rates, rules, and regulations only after full hearing. The conditions here discussed vary widely in different seasons, in different sections of the country, and on different routes in different years, dependent upon the general conditions of business, the volume of the crops, the severity of the winter, etc. Assuming, therefore, that the Commission has power, after full hearing, to prescribe the rules and regulations to govern the interchange of cars on a given route, it is obvious that that procedure would not afford adequate relief. There are literally thousands of through routes over the railroads of the country which are not covered by joint rates. It is approximately accurate to say that a shipment can move as a through shipment from any point to any other point regardless of the distances or the number of roads which must handle the shipment. There are good and substantial reasons for not undertaking to publish joint through rates as to all such possible routes, and that fact is recognized by the provision in the act requiring the carriers to publish either joint rates or their separately established rates applicable to the through business. Cars, therefore, move regardless of ownership far beyond the lines of the owning carrier and its immediate connections. A car goes out into the sea of movement of traffic under conditions analogous to those under which a bank note goes over the counter of the bank into the hands of the public. It seems obvious, therefore, that rules regarding the use and return of carriers' cars and the compensation to be paid by one carrier for the use of another carrier's cars must be uniform for the entire country. It is quite probable that it would be reasonable, desirable, and proper to make those rules more drastic and the compensation higher during periods of so-called "car shortage" than during other periods when there is an abundance of equipment and transportation facilities.

Section 1 of the act requires the carriers to furnish transportation as defined in that section "upon reasonable request therefor," and defines the term "transportation" as including, among other facilities, cars. Manifestly if the carriers were to equip themselves with cars, motive power, tracks, and terminals so as to meet at any moment the maximum demand for transportation, a substantial part of those facilities would be idle during a part of each year and

sometimes during all of consecutive years. Interest on the investment and depreciation of the facilities would, however, go on. It would be an extremely difficult thing to determine exactly when a carrier had reasonably provided itself with facilities, and the undertaking would be much more difficult under existing conditions where the carrier that has signally failed in this regard is able to keep itself on a substantial parity with other carriers by using their equipment under a per diem charge which is moderate, if not nominal, during the period of "car shortage," and by disregarding entirely the rules adopted by the carriers relative to the use and return of such cars. The Supreme Court of the United States in *Houston & Texas Central R. R. Co.* v. *Mayes*, 201 U. S., 321, seems to have recognized the fact that it would be unreasonable to undertake to require a carrier to provide facilities which would meet every condition that might arise; and in *Interstate Commerce Commission* v. *I. C. R. R. Co.*, 215 U. S., 452, it was held that a railroad's car supply may be legally sufficient and yet not sufficient to meet the demands of shippers in unforeseen contingencies, fluctuations in the demand for transportation, or unavoidable absence of equipment off the line.

The right and power of the Commission to determine the reasonableness or discriminatory character of a carrier's rules for distribution of the available cars among its patrons has been established beyond question. *Traer* v. *Chicago & Alton R. R. Co.*, 13 I. C. C., 451; *Powhatan Coal & Coke Co.* v. *N. & W. Ry. Co.*, 13 I. C. C., 69; *Hillsdale Coal & Coke Co.* v. *P. R. R. Co.*, 19 I. C. C., 356; *Rail & River Coal Co.* v. *B. & O. R. R. Co.*, 14 I. C. C., 86; *Interstate Commerce Commission* v. *I. C. R. R. Co.*, 215 U. S., 452.

Since the outbreak of the European war the purchases made in this country by the belligerents have contributed to an almost unprecedented demand upon our railroads for transportation. The inadequacy of existing facilities to meet such a demand has been amply demonstrated. The uncertainties as to ocean transportation have made it unusually difficult to secure expeditious or regular movement of export traffic through the ports, and this led to great congestion, with consequent delay of equipment, at the ports and on lines leading thereto. This situation had grown so bad and become so acute in the early spring of 1916 as to lead the Commission to suggest to the executives of the eastern railroads some united and cooperative effort to improve it. The cars of the western railroads had been loaded with eastbound traffic and sent through to such an extent that their supply was alarmingly diminished. A united effort was organized, to which we gave some assistance and support, and a fair measure of relief was secured. Serious congestion, delay, and shortage of cars, however, continued without interruption, and in the fall, when the time came for moving the grain

crops and the winter supply of fuel, the shortage of cars on the principal grain-carrying roads and on the roads that originate coal again became acute.

A road that has fairly well provided itself with cars, and that is the originator of the greater portion of the tonnage which it moves, presumably would favor an increased per diem charge for the use of one carrier's cars by another, but the road that is a delivering carrier of a much larger volume of traffic than it originates presumably would take the opposite view. The carrier that is disposed to depend upon its ability to confiscate to its own uses the cars provided by other carriers naturally desires to do so at the lowest possible cost to itself. It is therefore difficult to get any new agreement between all of the carriers with their varying individual interests. Experience seems to show that every carrier shrinks from seeking the penalties provided in the rules voluntarily agreed to by the carriers among themselves for misuse or improper diversion of its cars. It naturally fears retaliation, which might take the form of diverting substantial quantities of traffic, and as to which it would have no adequate recourse.

It seems to us beyond question that largely increased railroad facilities are necessary to adequately handle the commerce of the country, and that in some way those facilities must be provided. It seems, also, that it would be sound public policy to exhaust all reasonable efforts to secure the highest possible degree of efficiency from the facilities already possessed. Obviously this can not be done by leaving these matters for determination by unanimous vote of all the carriers in the country. Within certain limits the force of competition between carriers can not be denied. The carrier that desires to participate in the movement of traffic must carry it as cheaply as its competitor. It must accord as liberal rules and regulations as are accorded by its competitor, and these competitive influences make unanimity of opinion as to what are proper rules and regulations more difficult of attainment than it would otherwise be.

From these facts and experiences and a study of these considerations over a substantial period we are led to the conclusion that a reasonable degree of the desired and necessary improvement can be reached within any reasonable time only by vesting power to regulate these questions for all railroads in the appropriate federal body, and also providing means by which rules and regulations promulgated can be enforced. We recommend that the Commission be given definite and specific authority to prescribe for all carriers by rail subject to the act rules and regulations governing interchange of cars, return of cars to the owning road, the conditions and circumstances under which such cars may be loaded on foreign roads, and the compensation which carriers shall pay to each other for the use of each other's cars. The carriers should be required to publish,

post, and file with the Commission, under the provisions of section 6 of the act, such rules and regulations prescribed by the Commission, and should be held to an observance of those rules and regulations just as they are held to an observance of their lawfully published, posted, and filed rates.

When a carrier has received for delivery more traffic than its facilities can accommodate, and knows that a very large volume is coming and coming more rapidly than the consignees are taking it from the carrier, it must, in order to avoid a congestion which would render it powerless to serve anyone, resort to embargoes. Its connections, in order to protect themselves, must, in turn, embargo the same traffic, and so the embargo goes back from carrier to carrier to the points of origin. We do not understand that an embargo has any defined standing in law. It seems to be a refusal on the part of the carrier temporarily to perform its full duties as a common carrier due to causes which it is unable to control. The natural desire of every carrier is to secure and move the largest possible volume of traffic. Its selfish interests would induce it to withhold issuing an embargo until the last moment. Sometimes it becomes necessary to embargo a particular commodity, or shipments for a particular destination, or even shipments for a particular consignee who is dilatory about receiving or unloading his shipments. More adequate terminals and transportation facilities would, of course, minimize the necessity for embargoes. It would be ideal if it were not necessary to resort to an embargo except in the event of some unusual catastrophe, but it is difficult to see how it will be possible to get along without embargoes so long as the volume of traffic offering at any particular time is substantially greater than the capacity of the facilities possessed at that time.

We have assembled in the following summary statement the numbers of revenue ton-miles reported by carriers for the years ended June 30, 1891, to 1915, inclusive, and for comparison with them the numbers of freight cars in service at the close of the respective fiscal years, and the total tonnage capacity of such cars. Comparison of these figures shows that with minor fluctuations, due principally to fluctuations of traffic, the average number of ton-miles per car per annum has increased throughout the period, despite the fact that the number of cars in service has almost uniformly increased from year to year. This is not to be understood as showing a more efficient use of the car equipment, however, for when comparison is made between ton-miles and tonnage capacity of cars during those years for which the figures are available, the average for the later years is lower than for the earlier years. This suggests, when considered in connection with the increasing length of haul during the later years, that the cars are not being loaded during recent years as nearly to full capacity as they formerly were.

*Statement nterstate Commerce Commission for the years named.**

Year ended June 30.	Eastern ited district. tes.	Average number of ton-miles per ton capacity.				Average length of haul.			
		Eastern district.	Southern district.	Western district.	United States.	Eastern district.	Southern district.	Western district.	United States.
						Miles.	*Miles.*	*Miles.*	*Miles.*
1891.....	44,428,720,	.....	.....	.....	.....	108.85	128.09	139.92	120.00
1892.....	49,692,700,	.....	.....	.....	.....	110.36	121.08	161.46	124.89
1893.....	51,156,467,	.....	.....	.....	.....	109.64	122.09	164.46	125.60
1894.....	43,184,424,	.....	.....	.....	.....	109.15	131.79	161.93	125.88
1895.....	48,228,949,	.....	.....	.....	.....	108.78	142.15	147.51	122.32
1896.....	53,020,338,	.....	.....	.....	.....	110.18	135.46	153.95	124.47
1897.....	50,740,611,	.....	.....	.....	.....	113.62	142.46	153.52	128.27
1898.....	60,204,891,	.....	.....	.....	.....	112.49	144.75	161.23	129.78
1899.....	66,649,427,	.....	.....	.....	.....	112.40	143.91	159.84	128.85
1900.....	75,044,260,	.....	.....	.....	.....	111.03	141.08	162.37	128.53
1901.....	75,561,728,	.....	.....	.....	.....	114.94	167.05	165.19	135.03
1902.....	78,726,751,	2,977	.....	.....	3,719	109.93	160.56	162.83	131.04
1903.....	87,046,082,	0,281	.....	.....	3,569	113.62	158.16	160.69	132.80
1904.....	87,009,756,	9,133	.....	.....	3,438	113.69	159.57	161.07	133.23
1905.....	93,948,925,	5,083	.....	.....	3,501	111.22	164.16	156.90	130.60
1906.....	107,488,614,	9,302	.....	.....	3,655	111.22	166.77	161.78	132.33
1907.....	117,961,319,	3,324	.....	.....	3,530	110.90	164.39	161.15	131.71
1908 [3].....	108,302,123,	6,522	.....	.....	2,988	123.43	162.95	169.61	143.83
1909 [3].....	106,376,498,	7,546	.....	.....	2,992	123.04	163.79	162.01	141.87
1910 [3].....	125,024 755,	8,735	.....	.....	3,330	120.36	164.62	158.79	138.31
1911 [3].....	130,834,171,	7,028	3,140	2,961	3,208	3,130	122.68	177.54	171.11	142.88
1912 [3].....	134,947,238,	5,418	3,172	3,068	3,266	3,183	121.87	179.40	174.24	143.44
1913 [4].....	154,172,856,	8,145	3,466	3,290	3,557	3,465	124.11	184.62	179.16	146.59
1914 [4].....	144,427,881,	7,098	3,163	3,207	3,159	3,169	123.19	183.83	177.20	146.04
1915 [4].....	136,796,441,	4,602	2,965	3,011	3,076	3,009	129.04	194.24	186.78	153.79

* For years pr
[1] Does not inc
[2] For the year for 1907, 5,540 cars; for 1908, 4,550 cars; for 1909, 2,268 cars; for 1910 1,590 cars; for 1911
[3] Does not inc
[4] Does not inc

65001[1]

REPARATION.

By the amendments of 1906 to the act the Commission was first given power to really regulate rates or to prescribe a reasonable maximum rate for the future. During the year covered by our annual report submitted in December, 1906, 82 formal cases and investigations were instituted and 1,002 informal complaints were received. During the year covered by this report 878 formal cases and investigations were instituted, 6,040 cases were considered on the special docket, and 4,939 informal complaints were received and given attention. The cases on the special docket involve no principle except the payment of reparation. The same is true as to the great majority of the informal complaints and a very large number of the formal complaints.

The ideas originally had as to awards of reparation and the showing which complainant must make in order to be entitled to an award of reparation have been substantially modified in recent years, especially with regard to reparation because of undue preference, undue prejudice, or unjust discrimination. The Supreme Court of the United States has held that in a discrimination case the damage to complainant, if any, may be exactly equal to the difference between the rates paid by the complainant and those paid by his competitor; it may be more and it may be substantially less; but whatever it is, he must prove his damage with the same degree of certainty that would justify a judgment in court. *Penna. R. R. Co.* v. *International Coal Co.*, 230 U. S., 184. With respect to reparation because of the payment of a rate that is unreasonable *per se*, the Commission has followed the rule that the measure of damages is the difference between the rate paid and that which would have been paid under the reasonable rate, and has declined to go beyond the parties to the transportation contract in an effort to prove or to disprove that the complainant was damaged. There are many who argue that this policy is erroneous and that with regard to proof of damage there is and should be no distinction between the discrimination case and the case of an unreasonable rate. Counsel for the carriers argue that if the shipper has paid a rate that is later found to have been unreasonable, but has conditioned his commercial transactions in the light of and on the basis of the rate paid, he has passed along to his vendees any damage that he might have sustained and is therefore not entitled to reparation.

The idea in authorizing the Commission to award reparation apparently was to afford a direct and inexpensive way for the complainant to secure a decision on that point. The Commission's award of reparation is, of course, not binding upon the carrier; it is only prima facie evidence in court, and if the carrier is unwilling to pay

the reparation so awarded, the claimant must seek his remedy by suit in court.

During somewhat recent years numerous agencies have been established in different parts of the country whose principal or sole business is to secure from shippers or consignees their paid freight bills and power of attorney to bring complaints in the name of the one from whom such bills are secured. Usually an agreement is entered into that whatever reparation is recovered will be divided on a percentage basis, but in some instances expense bills are purchased outright for insignificant sums. Wherever it is thought that there is any prospect of securing an award of reparation, complaint is brought before the Commission, which necessitates hearing, decision, and preparation and printing of a report. The number of such cases is very large, and it is undoubtedly true that if it were not for the hope of securing reparation a majority of the complaints filed would not be presented.

In connection with the question of reparation on account of an unreasonable rate charged it should be borne in mind that the standard of reasonableness under our act is not a definite fixed standard. That is to say, whether a certain rate is reasonable or not often can not be known by the carrier until the Commission has passed upon it. Now, in seeking reparation on account of an unreasonable rate, complainants frequently invoke the common law in support of their claims, but we have been referred to no common-law case where the standard exceeded by the carrier was not a fixed definite standard which the carrier knew and was bound to observe. The act contemplates that we shall find rates reasonable or unreasonable according to whether, in our opinion, the rate bears a proper relation to the service rendered. But this is preeminently a question upon which opinions of the Commission and of the carriers may differ, and the act contemplates an original exercise of the carriers' judgment.

As stated, the cases that are handled on our special docket involve no question except payment of reparation. They are all cases in which the carrier admits the unreasonableness of the charge and consents to pay the reparation. If we had no power to award reparation, a mass of cases which now require consideration and decision, with all their attendant detail work and expense, would be kept off the Commission's dockets. If we had no power to award reparation, but continued to exercise the power and perform the duties of determining what was, is, or will be the reasonable maximum rate, and if the rate were found to be unreasonable the date upon which it became unreasonable, and whether or not there was or is undue preference, undue prejudice, or unjust discrimination, and if so, the extent thereof, it is probable that such finding would have as much force in court as if it were supplemented by a specific finding as to the dam-

ages sustained by complainant. Under such a plan the rights of the parties would be judicially determined just as they now are in cases in which the carrier is unwilling to pay the reparation awarded by the Commission.

The act authorizes us to prescribe for the future only the maximum reasonable rate, fare, or charge. The carriers are at liberty to adopt the maximum so fixed or anything lower. It may easily transpire that an adjustment contemplated by the fixing of maximum rates, fares, or charges will be distorted or set at naught by the action of some individual carrier. The orders of the Commission are binding for a maximum period of two years. It frequently results that discriminatory or unreasonable rate situations considered in an investigation extending over a substantial period of time and involving a large amount of work and expense, and which are corrected for a period of two years by an order, are reestablished immediately upon the expiration of the two years, thus necessitating another equally or more exhaustive investigation.

The decision in any case must be based upon the record made in that case. There is ample reason to believe that parties who may be affected by the decision in a case purposely refrain from intervening therein with the full expectation of bringing another complaint in the event that decision of the pending case affords ground or opportunity for attacking some rate or adjustment that is not at issue in the pending case. Frequently carriers refrain from intervening in cases in which any decision other than dismissal of the complaint will necessarily affect their interests and then petition for rehearing on the ground that their interests are involved and affected and they have not been heard.

These and other contributing causes lead to the result that in this respect and to this extent the present system or plan of regulation resolves itself largely into a sort of continuous moving around in a circle. The necessity for flexibility in order to fairly meet rapidly changing industrial and commercial conditions is fully recognized, but the soundness of the theory of leaving each carrier free to initiate its own rates and thus investing each of them with the power to overthrow or seriously disturb an adjustment that is recognized as reasonable and fair by the overwhelming majority of the carriers and shippers interested therein may well be doubted.

There are many instances in which a rate that has been in effect for 8 or 10 or more years and against which no real objection has been made is attacked as unreasonable, both at the time of filing the complaint and for the statutory period of two years prior thereto, and reparation on past shipments moving within the period of limi-

tation is demanded. It seems clearly desirable that the highest possible degree of uniformity and stability of rates and rate relationships should obtain, and that the time at which the carriers' final accounts for past years may be considered closed should be much more definite than it is.

All rates, fares, and charges have been open to complaint for a period of more than 10 years, within which the Commission had power to fix the future maximum rates. For a period of more than six years all proposed increased rates have been subject to protest and suspension before becoming effective. Obviously there should come a time when as to the past the general level of the rates and the relationship of rates should be fixed as reasonable. We are convinced that the best interests of the entire public, of the system of governmental regulation of rates, and of the railroads will be served by the enactment of a statute which as of a specified date fixes the existing interstate rates, fares, classifications, rules, regulations, and charges as just and reasonable for the past, and which provides that after that date no change therein may be made except upon order of the Commission. Of course, causes pending at the time of the enactment of such a statute should be preserved. The time as of which the existing rates, fares, charges, classifications, rules, and regulations are declared to be reasonable for the past should antedate somewhat the date of the enactment in order to prevent the filing of numberless complaints and new rate schedules in anticipation of a date fixed at some time in the future.

The adoption of such a plan as this would make it possible to apply the energies expended upon rate controversies in the direction of constructive work for the future instead of expending them upon controversies as to reparation for the past, with every probability that in a majority of the cases the one who ultimately bore the charge will never be reached by the reparation.

STATUTE OF LIMITATIONS.

In our last report we recommended that for the purpose of uniformity and to prevent injustice, there should be provided by law one period of three years for the beginning of all actions relating to transportation charges subject to the act. Since that time we have participated in consideration of proposed legislation on this subject, in the light of which we were brought to the conclusion that it would be preferable to leave the statute as it is, with regard to prosecution of violations, to fix a limit of three years within which the carrier may bring action for recovery of any part of its charges, and to leave the statutory limitation for filing complaints with the Commission for recovery of damages at two years, with the proviso that if the carrier begins action for the recovery of any part of its charges after

the two years have expired, or within 90 days before such expiration, complaint against the carrier for recovery of damages may be filed with the Commission within 90 days after such action shall have been begun by the carrier, and not after.

FIRE AND EXPLOSION AT JERSEY CITY.

On July 30, 1916, a conflagration occurred in the Lehigh Valley Railroad Company's terminals at Black Tom, Jersey City, N. J., which was accompanied by two severe explosions of ammunition, or materials for ammunition, which had been transported by rail to Black Tom and were there awaiting, in cars, warehouses, or barges, loading onto vessels for export. The Commission immediately sent one of its inspectors to Jersey City to ascertain whether or not the occurrence originated with an explosion and whether or not it was our duty or within our authority to further investigate it in connection with the regulations governing the transportation of explosives prescribed by us pursuant to the provisions of the act of March 4, 1909.

It was ascertained with apparent definiteness, and was later confirmed, that the fire was known to have been in progress among the cars in the terminal for about two hours before the first explosion occurred. There was no suggestion that any of the provisions of the act referred to or of the regulations promulgated thereunder had been violated, and it clearly appeared that we had neither the duty nor authority to proceed with further investigation of the occurrence.

Naturally the disaster aroused great interest among citizens and officials of the locality and state in which it occurred. As is usual in such instances, inaccurate and wholly incorrect assertions and assumptions were stated as facts.

The quantity of explosives in and about the Black Tom terminal at that time was unusual, due to exportation to belligerent countries in Europe. The right of common carriers to engage in the transportation of explosives is recognized by the act of March 4, 1909. No limit is fixed as to the quantity which a carrier may transport, and no authority is vested in the Commission to prescribe the extent to which a common carrier may engage in such traffic, or the extent to which it may use its public tracks and terminals for the delivery thereof. A limitation that would be adequate for the conditions on one road would be inadequate for those on another road, and limitations which would be appropriate at one time would at another time be inappropriate for the same road. It is recognized that every possible element of caution and safety should be thrown around the transportation of explosives and other dangerous articles, but if they are to be transported by rail they must

be transported over the tracks and delivered over the terminals possessed by the carrier. It is, of course, impossible by legislation or regulation to prevent powder burning when it is reached by fire.

It has been suggested that a limitation should be placed on the quantity of explosives which a carrier may have at a given place or terminal at one time. The conditions vary so widely at different places that it is difficult to suggest any general rule that could be made a basis for a definite legislative policy. It would seem to be best to commit the regulation of the volume of dangerous explosives that may be accumulated or stored at any given place within the limits of a municipality to those who are charged with the exercise of the police powers of the state over matters affecting the safety and protection of the citizens.

SHREVEPORT CASE.

Under the act to regulate commerce all charges made by a common carrier for any service rendered or to be rendered in the transportation of passengers or property under the provisions of the act shall be just and reasonable. The act makes unlawful any unjust discrimination, as defined in section 2, and any undue or unreasonable preference or advantage or undue or unreasonable prejudice or disadvantage, as described in section 3. Where, after full hearing, as provided in the act, the Commission is of opinion that any rate charged by a common carrier for transportation subject to the act is in contravention of the foregoing provisions, it is empowered to determine and prescribe the just and reasonable rate or charge to be thereafter observed as a maximum "and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds the same to exist." Thus, upon complaint alleging that rates on any commodity between a point in one state and points in another are unjust and unreasonable, and are unduly prejudicial as contrasted with rates maintained by the same interstate carriers for transportation of like property for comparable distances under similar conditions between points within one state, if we find that such rates are in our opinion unjust, unreasonable, and unduly prejudicial as alleged, it becomes our duty to order cessation of these violations of the act, to determine and prescribe just and reasonable interstate rates to be thereafter observed as maxima, and to require the carriers defendant to remove the undue prejudice found to exist. We can not prescribe the exact rate or minimum rate to be maintained, nor do we specify the particular method to be employed in removing the undue prejudice. The carriers remain at liberty to establish, in compliance with the act, such rates as they see fit, provided they do not exceed those set as maxima and do not continue

the undue prejudice. In eliminating the latter they may lawfully reduce the interstate rates to the basis of the state rates, increase the latter to the level of the former, or otherwise equalize the two in such way as to do away with the undue prejudice.

Such a complaint was filed on March 7, 1911, by the Railroad Commission of Louisiana under direction of the legislature of that state. It was docketed as No. 3918 and is generally known as the *Shreveport Case.* It alleged that rates for the transportation of freight from Shreveport to points in eastern Texas were unreasonable and unduly prejudicial to Shreveport as compared with rates on like traffic from competing Texas points to destinations in Texas.

The proceeding had two objects: (1) To secure an adjustment of rates that would be just and reasonable from Shreveport into Texas; and (2) to end, if possible, the alleged unjust discrimination practiced by these interstate railroads in favor of Texas state traffic and against similar traffic between Louisiana and Texas. The petition sought establishment of the same basis of rates between Shreveport and east Texas points as were accorded by the defendant carriers to Texas competitors of Shreveport interests in the same line of business for the same distances.

In our report thereon, *Railroad Commission of La.* v. *St. L. S. W. Ry. Co.*, 23 I. C. C., 31, we found that the allegations of the complaint had been sustained. For example, a rate of 60 cents carried first-class traffic a distance of 160 miles to the eastward from Dallas, while the same rate would carry the same class of traffic only 55 miles into Texas from Shreveport. The first-class rate from Houston to Lufkin, Tex., 118.2 miles, was 50 cents per 100 pounds, while the rate from Shreveport to the same point, 112.5 miles, was 69 cents. The rate on wagons from Dallas to Marshall, Tex., 147.7 miles, was 36.8 cents, and from Shreveport to Marshall, 42 miles, 56 cents. The rate on furniture from Dallas to Longview, Tex., 124 miles, was 24.8 cents, and that from Shreveport to Longview, 65.7 miles, was 35 cents. These instances are merely illustrative of the rate adjustment. We found that the class rates prescribed by the Texas commission would not be too low as interstate rates for the distances involved, yet the carriers maintained higher rates from Shreveport, the interstate point. We found that Shreveport competed with the Texas cities for trade, that the difference in rates was substantial, and that it injuriously affected the commerce of Shreveport.

With regard to the alleged discrimination, we said in our report, 23 I. C. C., 31:

> The railroads deny that the rates out of Shreveport are unreasonable, but place their defense mainly upon the proposition that they are compelled by the railroad commission of Texas to effect the discrimination here involved.

* * * There appears to be little question as to the policy of the Texas commission. It is frankly one of protection to its own industries and communities. * * * Passing, then, to the question of discrimination, has this Commission the power to say that whatever rates an interstate carrier makes between points in Texas shall not be exceeded for the same distance under like conditions between Shreveport and Texas points? In other words, may a carrier engaged in interstate commerce discriminate against a city beyond the border of a state by imposing upon that city's traffic rates which deny its shippers access upon equal terms to the communities of an adjoining state?

This is an appeal to the powers lodged in this Commission under the third section of that act—that provision which is aimed at the destruction of undue preference and advantage. We thus meet directly the most delicate problem arising under our dual system of government. Congress asserts its exclusive dominion over interstate commerce; the state asserts its absolute control over state commerce. The state for its own purposes establishes rates designed to protect its own communities and promote the development of its own industries. These rates are adopted by the interstate carriers upon state traffic, but are not adopted upon interstate traffic. Thus arises a discrimination in favor of communities within the state, and interstate commerce suffers a corresponding disadvantage. May this Commission end such discrimination by saying to the carrier, "You may not distinguish between state and interstate traffic transported under similar conditions. If the rates prescribed for you by state authority are not compensatory upon this specific traffic as to which discrimination is found, the burden rests upon you, irrespective of your obligation to the state, to so adjust your rates that justice will be done between communities, regardless of the invisible state line which divides them?" To which we are compelled to answer that the effective exercise of its power regarding interstate commerce makes necessary the assertion of the supreme authority of the National Government, and that the Congress has appropriately exercised this power in the provisions of the act to regulate commerce touching discrimination.

On the record made we found, among other things, that the interstate class rates from Shreveport to specified points in Texas were unreasonable and prescribed maximum class rates for this traffic substantially the same as those fixed by the Texas commission for use within that state. The report stated that it would be the duty of the defendant carriers under the order to duly and justly equalize the terms and conditions upon which they will extend transportation to traffic of a similar character moving into Texas from Shreveport with that moving wholly within Texas, but that, in effecting such equalization, the class scale rates as prescribed should not be exceeded. The order included a requirement that the three defendant carriers named "abstain from exacting any higher rates for the transportation of any article" from Shreveport to Dallas, Tex., and points intermediate via the lines of the Texas & Pacific, and from Shreveport to Houston, Tex., and points intermediate via the lines of the Houston, East & West Texas and the Houston & Shreveport "than are contemporaneously exacted for the transportation of such articles from Dallas or Houston for an equal distance toward said Shreveport." The defendant carriers brought a proceeding in the Com-

merce Court to set aside this order upon the ground that it exceeded our authority, but later their attack was confined to the portion of it last cited, and the order was upheld in *Texas & P. Ry. Co.* v. *United States*, 205 Fed., 380. That court's decision was sustained by the Supreme Court of the United States in *Houston & Texas Ry.* v. *United States*, 234 U. S., 342. In the course of its opinion the Supreme Court said:

> We are not unmindful of the gravity of the question that is presented when state and federal views conflict. But it was recognized at the beginning that the nation could not prosper if interstate and foreign trade were governed by many masters, and where the interests of the freedom of interstate commerce are involved the judgment of Congress and of the agencies it lawfully establishes must control.

Our report and order had declared the doctrine that carriers engaged in interstate commerce could not, either of their own volition or under the seeming compulsion of state requirements, prefer state traffic to the undue prejudice of interstate commerce, but, being restricted in operation to three carriers, did not, as a practical matter, afford complainants the full relief to which they believed themselves entitled. Accordingly a supplemental hearing was had upon petition by complainants for additional relief. The evidence adduced at this hearing was largely to the same general effect as that presented in the original hearing.

On June 17, 1915, we made a supplemental report and order, *Railroad Commissioners of Louisiana* v. *St. L. S. W. Ry. Co.*, 34 I. C. C., 472. This order, which applied to many carriers not parties to the original proceeding, required, among other things, that all the carriers named therein should establish and maintain from Shreveport to points in what was defined as "eastern Texas," and from those points toward Shreveport, class rates no higher than a certain mileage scale there found reasonable. This scale was based on the Texas class scale up to its maximum of 245 miles, and beyond on the Texas-Oklahoma scale to 400 miles. The order also required the carriers there defendant to cease and desist from charging, demanding, collecting, or receiving rates for the transportation of any commodity from Shreveport to destinations in eastern Texas higher than those contemporaneously applied to the transportation of such commodity for an equal distance from points in eastern Texas toward Shreveport, or higher, distance considered, than the corresponding class rates named in the order. In order to remove what was found to be unjust discrimination defendants were further required to establish, maintain, and apply to the transportation of traffic from points in eastern Texas toward Shreveport the provisions of the current western classification in effect at the time the traffic moved.

In alleged compliance with the supplemental order the defendants published in various tariffs a scale of class rates. Upon protest of interested parties representing various cities, commercial organizations, and industries in the state of Texas, we postponed until further notice the effective date of the supplemental order and by appropriate order suspended the schedules containing the proposed rates. The proceeding under this suspension is known as Investigation and Suspension Docket No. 710. Thereafter, under special permission of the Commission, tariffs were filed canceling the suspended tariffs.

By other tariffs certain carriers proposed increased class rates on domestic traffic from Galveston and other Texas ports to Shreveport. Upon protest by interested parties the operation of these increased rates was suspended by appropriate orders. The proceeding with respect thereto is known as Investigation and Suspension Docket No. 729.

Upon the record then made the relief accorded complainants by our supplemental report and order, *supra*, was limited to the territory there defined as eastern Texas, and applied only to traffic moving from Shreveport or toward Shreveport. The report and order did not affect rates from and to points in western Texas, although such points might compete with Shreveport at points in eastern Texas. Moreover, not all carriers operating in eastern Texas had been made parties defendant.

The complainants, in September, 1915, filed a new complaint, docketed as No. 8290, asking us to extend the terms of our supplemental order to certain other roads operating in eastern Texas not named as defendants in the original or supplemental proceeding. In October, 1915, they filed a third complaint docketed as No. 8418, in which they sought to have the requirements of the supplemental order extended to all the railroads in Texas.

By agreement of counsel for all interested parties the five proceedings above named were consolidated for hearing and argument and were disposed of in one report and order, *Railroad Commission of Louisiana* v. *A. H. T. Ry. Co.*, 41 I. C. C., 83, July 7, 1916.

The issues in the consolidated cases, as set forth in that report, were:

(1) The reasonableness of defendants' class and commodity rates between Shreveport and points in Texas; (2) whether or not such class and commodity rates are unduly prejudicial to Shreveport as compared with rates maintained by defendants for the transportation of like property for similar distances within the state of Texas; and (3) whether or not the application of the provisions of the western classification to the transportation of property between Shreveport and points in Texas while contemporaneously applying the provisions of the Texas classification to the transportation of like property within the state of Texas results in undue prejudice to Shreveport.

The evidence in the consolidated cases showed striking discrepancies between rates for transportation between Shreveport and Texas points on the one hand and those for similar transportation within the state of Texas on the other. The following, taken from a number of examples in our report, are illustrative of the situation: The carload rate on glass bottles to Amarillo, Tex., from Shreveport, a distance of 552 miles, was 40 cents, while from San Antonio, 592 miles, and Houston, 594 miles, the rate was 29 cents; the carload rate on window glass to Corpus Christi, Tex., from Shreveport, a distance of 477 miles, was 24 cents, while from Wichita Falls, 513 miles, and from Dallas, 496 miles, the rate was 15 cents; to Gainesville, Tex., the carload rate on tight wooden barrels was 39 cents from Shreveport, 262 miles, 15 cents from Navasota, 297 miles, and 18 cents from Galveston, 411 miles; from Brownsville, Tex., the carload rate on cabbages was 49 cents to Shreveport, 589 miles, and 28 cents to Marshall, 598 miles, and Texarkana, 665 miles, the interstate shipments being subject to a carload minimum weight of 12 tons and a refrigeration charge of $61.50 as against a minimum of 10 tons and a refrigeration charge of $35 applicable on the state traffic; the rate on onions from Laredo, Tex., to Shreveport, 555 miles, was 52 cents, subject to a carload minimum of 12 tons, while that to Pittsburg, 522 miles, and Texarkana, 582 miles, was 20 cents, subject to a carload minimum of 10 tons; on wheat from Amarillo the rate was 32 cents to Shreveport, 552 miles, and 15 cents to Nacogdoches, 534 miles, and Houston, 594 miles; from Sweetwater, Tex., the rate on peanuts was 44 cents to Shreveport, 425 miles, and 15 cents to Denison, 303 miles, and Texarkana, 447 miles. Shipments of the commodities named have moved between Shreveport and points in western Texas. As stated in the report, "similar contrasts in class and commodity rates might be multiplied almost indefinitely."

Briefly, we found that the class rates and rates on certain specified commodities between Shreveport and points in Texas were unreasonable, and unduly prejudicial to Shreveport as compared with similar rates for like distances in Texas; and that the application to the transportation of property within Texas of classification rules different from and minimum carload weights lower than those applicable to transportation of like property between Shreveport and Texas points was unduly prejudicial to Shreveport. Reasonable maximum rates between Shreveport and Texas points were prescribed and the undue prejudice found to exist was ordered removed, the order becoming effective November 1, 1916. Upon the evidence adduced at this second rehearing we modified in some respects the scale previously prescribed as maximum. The modifications so made were principally with regard to rates for short distances and were largely due to the showing made respecting terminal expenses, as set forth in the report.

For many years Texas has been divided, with respect to traffic moving on class rates, into "common-point territory" and "differential territory." To the former it has been the practice to state class rates on a mileage basis, blanketed beyond 245 miles. To points in the latter, rates are constructed by adding to the common-point rates what are known as differentials. 41 I. C. C., 83, at pages 109 and 110. This situation was created by the carriers.

In prescribing just and reasonable rates to points in western Texas it became necessary for us to prescribe rates between Shreveport and points in differential territory. This Commission does not lightly disrupt an adjustment of long standing, presumably suited to the needs of the territory affected, in the absence of evidence that the system is no longer necessary or works unjust discrimination. No objection to the differential territory system was made at the hearing. Accordingly in prescribing just and reasonable class rates as maxima between Shreveport and points in Texas, we recognized existing conditions and prescribed maximum rates between Shreveport and points in common-point territory, with maximum differentials, graduated with the length of the haul, and based largely upon the Texas differential scale, for transportation between Shreveport and points in differential territory.

Subsequent to the promulgation of this report and order, but before the effective date of the latter, petitions were filed on behalf of the state of Texas, the attorney general of Texas, and of various localities and commercial interests of Texas, asking for the suspension of the tariff purporting to comply with our order and for a full hearing in respect of the rates contained in that tariff.

Informal hearing was had October 19 and 20 on these requests for suspension, and as a result we suspended the operation of items in the tariff naming rates on several commodities pending an investigation of the propriety thereof.

Some of the petitions asked that the proceeding be reopened. Upon consideration of these requests the Commission ordered argument set for December 6 upon such petitions to determine (1) whether or not the proceeding should be reopened, and, if so, for what purposes and to what extent; and (2) if reopened, what further parties, if any, should be permitted to intervene.

Many of the allegations of the petitions are such as might occur in any petition to reopen a proceeding and need no comment. Others, relating to the power of this Commission to make its order of July 7, 1916, we deem concluded by the Supreme Court's decision, *supra*.

Certain allegations, however, deserve more than passing attention. These are, in substance, that the order is null and void as to the

state of Texas, its railroad commission, and its citizens, for the reason that none of them was a party to the proceeding and, as to them, full hearing was not had.

The act to regulate commerce provides, in part:

> That any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, * * * complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act, in contravention of the provisions thereof, may apply to the said Commission by petition * * *.
>
> Said Commission shall, in like manner and with the same authority and powers, investigate any complaint forwarded by the railroad commissioner or railroad commission of any state or territory at the request of such commissioner or commission * * *.

The Commission's Rules of Practice provide that—

> Any person may file an intervening petition in any proceeding prior to or at the time the case is called for hearing, but not after, except for good cause shown.

There is nothing in the act creating this Commission and conferring upon it duties and powers that authorizes us to compel intervention by anyone.

The present proceeding has been pending, in its various phases, since March 7, 1911. A number of hearings have been had. Three reports have been issued by this Commission. It has been the subject of two court decisions and has been commented upon at length in our annual reports to the Congress. In short, it may be said that few proceedings have received the publicity given to this.

At the hearing on the original complaint counsel for complainants stated of record that the Railroad Commission of Texas had been invited to participate in the proceeding, but had made no reply. At subsequent hearings, as stated in our reports, 34 I. C. C., 472, 475, 41 I. C. C., 83, 86, representatives of the Texas commission were present, but took no part in the proceedings. From the outset various localities and commercial interests of Texas have participated in the proceeding.

The doctrines announced in our original report in No. 3918, *supra*, have since been invoked in more than 75 proceedings before us, over 50 of which have been decided. These complaints cover practically the entire country. Rates between Missouri and Illinois have been complained of both by parties in Missouri and parties in Illinois. One proceeding concerns rates from Rhode Island into Massachusetts, as compared with rates within Rhode Island. Another involves rates on fertilizer from Norfolk, Va., to destinations in North Carolina, as compared with rates within the latter state. Others are spread over the south, southwest, middle west, and northwest. Comparatively few originated in the territory east of Chicago and north

of the Ohio River. In some instances parties in one state are in one case invoking the powers of this Commission to remove alleged discrimination against interstate commerce caused by low rates maintained by the authorities of another state, while in another case they are challenging these same powers when called into play by others.

To obviate any question as to whether or not the state authorities in such cases as these have had proper notice our Rules of Practice provide:

In case the discrimination alleged is between intrastate and interstate or foreign traffic the complaint should so state with sufficient definiteness fully to disclose the allegation made in respect to any tariff provision prescribed, established, or compelled by state authority. The Commission desires in such cases to notify the state authorities of the complaint, and complainant must furnish sufficient copies for that purpose.

In conclusion it may be said that the Commission's position with regard to its duties and powers in such cases as these is set forth in the following excerpt from its report of July 7, 1916, in the *Shreveport Case, supra:*

It may be regarded as established beyond any possibility of doubt that the present relationship of rates and the difference in classifications has been and is now unduly prejudicial to Shreveport and operates to unduly restrict the trade and commerce of that city. The only excuse for this apparent and admitted discrimination against Shreveport is the claim of the carriers that the intrastate rates in Texas are under the control of the Texas Railroad Commission and that the carriers are powerless to increase them except by permission of that body.

The power and authority of this Commission to make such order in a case of this kind as may be necessary to remove any unlawful discrimination now existing against interstate traffic has been fully sustained by the Supreme Court of the United States in *Houston & Texas Ry.* v. *United States, supra.* In that case the court said:

"Wherever the interstate and intrastate transactions of carriers are so related that the government of the one involves the control of the other, it is Congress and not the state that is entitled to prescribe the final and dominant rule, for otherwise Congress would be denied the exercise of its constitutional authority and the state and not the nation would be supreme within the national field."

If the sole issue were whether or not the present adjustment of class and commodity rates between Shreveport and points in Texas is unduly prejudicial to Shreveport, it would be competent for us, if we found that complainants had sustained their allegation, to make an order requiring defendants to remove such undue prejudice. In the absence of other requirements by federal or state authorities, such an order could be complied with by increasing the Texas rates to the level of the interstate rates, or by reducing the interstate rates to the intrastate basis.

Should the latter alternative be adopted, either voluntarily or under compulsion of the state authorities, the intrastate rates and regulations would be given extraterritorial force and would become the standard for interstate commerce. The effect of adopting such a plan would not stop with Shreveport. Alexandria and Monroe, La., Vicksburg, Miss., and other points are in competition with

Shreveport for trade and commerce to and from Texas and, so far as we are advised, there is no more reason for extending the Texas rates and classification to Shreveport than to other points in Louisiana or other states east of the Mississippi River.

It can easily be conceived that if carriers, in removing undue prejudice against interstate commerce, were bound to follow the standard set by the state authorities, interstate rates, based in part on the requirements of one state and in part on those of others, would soon be in inextricable and intolerable confusion, productive of discord, and ruinous alike to shippers and carriers. This the commerce clause of the Constitution, under which the Congress has created this Commission and vested it with power, was designed to prevent.

In this proceeding the allegation of undue prejudice is not the sole issue. Defendants' class rates and many of their commodity rates are attacked as unjust and unreasonable.

It is perhaps unnecessary to say that the findings and conclusions of state commissions respecting the reasonableness of intrastate rates should be given great weight, that rates established in accordance with such findings should not lightly be disturbed and that we consider it our duty to cooperate in every proper way with the state authorities.

But the obligation placed upon us by the law requires us to exercise our best judgment upon the facts placed before us and in a case such as this, to prescribe just and reasonable maximum rates and enter such order as shall prevent or remove undue prejudice to interstate commerce, even though in some instances such action may incidentally affect the level of intrastate rates.

Turning now to the practical administrative problems which the principles of the *Shreveport Case* present, we venture to submit certain considerations which in our judgment deserve to be kept in view when amendments to the act are contemplated.

We call to mind once more the fact previously noted, that this Commission has not reached out in a spirit of aggression to lay its hands on situations involving the principles of the *Shreveport Case*. While we have decided over 50 of such cases, and more are being presented to us from time to time, we have dealt with them in the regular line of official duty. In all instances the complaints were filed by sovereign states, municipalities, public administrative authorities, private associations of business men, corporations, and individuals, parties who had a legal right to do so. We handle and dispose of these cases in the same manner as all other cases, in accordance with law and in obedience to our official oath. Were we to look about for opportunities to apply the principles of the *Shreveport Case*, we could find them in every part of the United States, and we have been requested in several instances to institute investigations upon our own initiative with a view to removing unjust discriminations in such cases just as we have proceeded in scores of other instances on our own initiative to apply remedies which the law provides.

Generally speaking, such situations represent rate questions and economic problems rather than legal controversies and constitutional issues. While we are fully sensible of the vital principles of con-

stitutional and statutory law which are inherent in certain aspects of such situations, we believe that every such case can, as a practical matter, be disposed of without challenge of these principles of government. In fact, controversies over constitutional limitations of powers and statutory grounds of authority tend to obscure the real elements of the rate problems presented and in which the public is primarily interested in these cases. The vital question is, What is the nature of the problem, and through what agencies and by what methods can that problem best be solved in the interest of the whole public?

The question is therefore presented how most effectively to bring into relief the mountains and the valleys of these interstate rate problems, so that they may be dealt with in a just and lawful manner. The situations requiring adjustment present two rates, one state and the other interstate, the one higher or lower than the other, applicable on the same commodity for transportation by the same carrier under substantially similar circumstances and conditions. Assuming both of these rates which give rise to the controversy to lie within the zone of reasonableness, an assumption which is not always warranted by the facts, the difference between them creates the unjust discrimination and the undue preference or advantage which we are called upon to remove. The single point within the zone of reasonableness which represents the reasonable rate is, therefore, the point to be sought. In the *Shreveport Case* proper, the history of which has been recited above, we had the assistance of the authorities of only one of the states concerned in addition to counsel for interested parties. In other cases, involving the same principles, we have had the active cooperation of the respective state commissions. This cooperation was entirely voluntary and without status under the act to regulate commerce, except in so far as the respective state commissions acted in the capacity of interested parties of record.

Viewing the entire situation as it has been depicted in proceedings before us, affecting widely scattered localities and territories throughout the United States, we believe that without abdicating any of the federal authority to finally control questions affecting interstate and foreign commerce we should be authorized to cooperate with state commissions in efforts to reconcile upon a single record the conflict between the state and the interstate rates. We believe that procedure like this, the legislative details of which we deem it unnecessary at this time to attempt to define, together with the other amendments recommended by us, or still to be brought to the attention of Congress through the joint congressional investigating committee, will go far to meet the requirements of the rate situation as it is presented in this country to-day.

In a great and growing country like this economic changes follow one another in rapid succession. The act to regulate commerce has been, and doubtless must continue to be, amended from time to time to meet these changes. Future needs, the indications of some of which are now discernible, can be met by future amendments when the times so require. We make these latter observations simply to guard against the possible impression that what we are proposing is thought by us to be more permanent than the character of the industrial and social life in which it is to be initiated.

CONCLUSION.

In this report we have brought to the attention of the Congress those matters which it seemed appropriate to so treat, but there are other questions which we shall probably desire to discuss before the Joint Committee on Interstate Commerce, and still others which we may desire to bring to the attention of the appropriate committees of the Congress.

SUMMARY OF RECOMMENDATIONS.

For the reasons previously stated in this report the Commission recommends:

1. That, unless the recommendation numbered 4 in this summary be followed, section 15 of the act to regulate commerce be so amended as to provide one period, limited to one year, for suspension of a schedule stating a new rate, fare, charge, classification, regulation, or practice; and, if so amended, that section 6 be amended so as to provide for 60 days' notice of proposed increased charges.

2. That appropriate provision be made for punishment of any attempt, by intimidation, threats, inducements, or otherwise, to influence the testimony of any witness before the Commission or to deter him from testifying; as also for punishment of misbehavior, disorderly conduct, or contumacy, in or about any proceeding before the Commission.

3. That the Commission be given definite and specific authority to prescribe for all carriers by rail subject to the act rules and regulations governing interchange of cars, return of cars to the owning road, the conditions and circumstances under which such cars may be loaded on foreign roads, and the compensation which carriers shall pay to each other for the use of each other's cars. The carriers should be required to publish, post, and file with the Commission, under the provisions of section 6 of the act, such rules and regulations prescribed by the Commission, and should be held to an

observance of those rules and regulations just as they are held to an observance of their lawfully published, posted, and filed rates.

4. That by statute the Congress fix the interstate rates, fares, charges, classifications, rules, and regulations existing at a specific date, prior to that of enactment, as just and reasonable for the past, and provide that no change therein after that specified date may be made except upon order of the Commission; with provision that such statute shall not affect proceedings pending at the time of enactment.

5. That, if jurisdiction to award reparation remains with the Commission, in lieu of the uniform three-year period recommended in our last annual report for the beginning of all actions relating to transportation charges subject to the act, the Congress fix a limit of three years within which a carrier subject to the act to regulate commerce may bring action for recovery of any part of its charges, and amend section 16 of the act so as to provide that if the carrier begins such action after expiration of the two-year limit now prescribed in that section, or within 90 days after such expiration, complaint against the carrier for recovery of damages may be filed with the Commission within 90 days after such action shall have been begun by the carrier, and not after.

6. That, without abdication of any federal authority to finally control questions affecting interstate and foreign commerce, the Commission be authorized to cooperate with state commissions in efforts to reconcile upon a single record the conflicts between the state and the interstate rates.

For the reasons stated in our previous annual reports the Commission renews its recommendations to the effect:

That the variety and volume of the work of the Commission necessitate early enlargement of its membership and express statutory power to act through subdivisions designated by the Commission to perform its duties with regard to specified subjects or features of its work, subject, of course, to retention by the Commission of its control, as a Commission, of all duties and powers delegated to the Commission. The recommendation for enlargement is directly connected with and dependent upon the authority to act through subdivisions.

That the portion of section 20 of the act which accords the Commission right of access to the accounts, records, and memoranda kept by carriers be amended so as to also accord right of access to the carriers' correspondence files.

That there should be appropriate and adequate legislation upon the subject of control over railway capitalization.

That the use of steel cars in passenger train service be required, and that the use in passenger trains of wooden cars between or in front of steel cars be prohibited.

That trains composed of cars exclusively used for the transportation of sugar cane on common-carrier railroads in Porto Rico should be excepted from the provisions of the safety appliance acts relating to power brakes.

STATEMENT OF APPROPRIATIONS AND AGGREGATE EXPENDITURES FOR THE INTERSTATE COMMERCE COMMISSION FOR THE FISCAL YEAR ENDED JUNE 30, 1916.

Sundry civil act Mar. 3, 1915:		
For salaries of Commissioners	$70,000.00	
For salary of secretary	5,000.00	
		$75,000.00
Sundry civil act Mar. 3, 1915—Deficiency act Feb. 28, 1916—For all other authorized expenditures necessary in the execution of laws to regulate commerce		1,025,000.00
Sundry civil act Mar. 3, 1915—To further enable the Interstate Commerce Commission to enforce compliance with section 20 of the act to regulate commerce as amended by the act approved June 29, 1906, including the employment of necessary special agents or examiners		300,000.00
Sundry civil act Mar. 3, 1915—For the payment of all authorized expenditures under the provisions of the act of Feb. 17, 1911, "To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto"		220,000.00
Sundry civil act Mar. 3, 1915—To enable the Interstate Commerce Commission to keep informed regarding compliance with acts to promote the safety of employees and travelers upon railroads, investigation and testing of block-signal and train-control systems and the investigation of hours of service, including the employment of inspectors		245,000.00
Sundry civil act Mar. 3, 1915—To enable the Interstate Commerce Commission to carry out the objects of the act approved Mar. 1, 1913, providing for a valuation of the several classes of property of carriers		3,000,000.00
Total		4,865,000.00

Amounts expended under the appropriations for the fiscal year ended June 30, 1916:		
As salaries to Commissioners and secretary	$75,000.00	
All other authorized expenditures	1,023,257.81	
Examination of accounts, act approved June 29, 1906	299,748.61	
Locomotive boiler inspection, act approved Feb. 17, 1911	211,520.08	
Safety appliance, block signal, and hours of service	240,239.14	
Valuation	2,984,332.83	
		4,834,098.47

Unexpended balance of appropriations, June 30, 1916:		
All other authorized expenditures from general appropriation	$1,742.19	
Examination of accounts, act approved June 29, 1906	251.39	
Locomotive boiler inspection, act approved Feb. 17, 1911	8,479.92	
Safety appliance, block signal, and hours of service	4,760.86	
Valuation	15,667.17	
		$30,901.53
Total		4,865,000.00

As stated, a detailed statement showing the names of employees and expenditures for the fiscal year ended June 30, 1916, constitutes Part II of this report.

BALTHASAR H. MEYER.
JUDSON C. CLEMENTS.
EDGAR E. CLARK.
JAMES S. HARLAN.
CHARLES C. MCCHORD.
HENRY C. HALL.
WINTHROP M. DANIELS.

APPENDIX A.

INDICTMENTS RETURNED AND CASES CONCLUDED.

Summary of indictments returned between November 1, 1915, and October 31, 1916, inclusive, for violations of the act to regulate commerce and the Elkins act.

Summary of cases arising from violations of above acts concluded between November 1, 1915, and October 31, 1916, inclusive, and fines assessed.

SUMMARY OF INDICTMENTS RETURNED BETWEEN NOVEMBER 1, 1915, AND OCTOBER 31, 1916, INCLUSIVE.

1. United States *v.* Abilene & Southern Railway Co., District Court, Northern Texas, October 9, 1916, indictment charging acceptance and receipt of concessions; 5 counts.

2. United States *v.* Chicago, Burlington & Quincy Railroad Co., District Court, Western Illinois, November 10, 1915, indictment charging failure to post tariffs at Rockford, Ill.; 1 count.

3. United States *v.* Chicago, Milwaukee & Gary Railway Co., District Court, Western Illinois, November 10, 1915, indictment charging failure to post tariffs at Rockford, Ill.; 1 count.

4. United States *v.* Chicago, Milwaukee & St. Paul Railway Co., District Court, Western Illinois, November 10, 1915, indictment charging failure to post tariffs at Rockford and Freeport, Ill.; 2 counts.

5. United States *v.* Chicago & North Western Railway Co., District Court, Western Illinois, November 10, 1915, indictment charging failure to post tariffs at Rockford, Ill.; 1 count.

6. United States *v.* Cudahy Packing Co., John A. McNaughton and James W. Robb, District Court, Northern Illinois, March 23, 1916, indictment charging presentation of false claims, 45 counts, and receiving concessions, 5 counts.

7. United States *v.* Cudahy Packing Co., John A. McNaughton, James W. Robb, John E. O'Brien, Frank Melville, and Chicago & Alton Railroad Co., District Court, Northern Illinois, March 23, 1916, indictment charging conspiracy to violate the act to regulate commerce; 1 count.

8. United States *v.* R. M. Davies, District Court, Western Texas, May 1, 1916, indictment charging false billing; 1 count.

9. United States *v.* Detroit & Toledo Shore Line Railroad Co., District Court, Eastern Michigan, March 21, 1916, indictment charging grant of concessions on shipments of coal to the Norfolk & Chesapeake Coal Co.; 6 counts.

10. United States *v.* Bernard A. Eckhart, of Eckhart Milling Co., District Court, Northern Illinois, January 10, 1916, indictment charging the soliciting, accepting, and receiving of rebates; 5 counts.

11. United States *v.* Farwell, Ozman, Kirk & Co., District Court, St. Paul, Minn., December 9, 1915, indictment charging false billing; 10 counts.

12. United States *v.* Finch Van Slyck & McConville, District Court, St. Paul, Minn., December 9, 1915, indictment charging false billing; 10 counts.

13. United States *v.* Herbert Herzstein, District Court, Santa Fe, N. Mex., October 31, 1916, indictment charging willful defeat of lawful through rate by device of rebilling shipments at an intermediate point; 10 counts.

14. United States *v.* Herbert Herzstein, District Court, Santa Fe, N. Mex., October 31, 1916, indictment charging presentation of false weights on shipments of corn; 10 counts.

15. United States *v.* Hewitt-Lea-Funck Co. and Wm. G. Funck, general manager, District Court, Western Washington, January 13, 1916, indictment charging false billing; 10 counts.

16. United States *v.* Hocking Valley Railroad Co., District Court, Northern Ohio, May 18, 1916, indictment charging failure strictly to observe demurrage tariffs in not giving notice of arrival; 10 counts.

17. United States *v.* Hocking Valley Railroad Co., District Court, Northern Ohio, May 18, 1916, indictment charging failure strictly to observe demurrage tariffs in not collecting demurrage after notice; 10 counts.

18. United States *v.* Hocking Valley Railroad Co., District Court, Northern Ohio, May 18, 1916, indictment charging grant of concessions to M. A. Hanna Coal Co.; 15 counts.

19. United States *v.* Illinois Central Railroad Co., District Court, Northern Illinois, November 10, 1915, indictment charging failure to post tariffs at Rockford and Freeport, Ill.; 2 counts.

20. United States *v.* George Johnson, District Court, Northern Illinois, November 5, 1915, indictment charging unlawful use of interstate pass; 1 count.

21. United States *v.* Kanawha & Michigan Railway Co., District Court, Northern Ohio, May 18, 1916, indictment charging grant of concessions to the Kelley's Creek Colliery Co.; 25 counts.

22. United States *v.* Kelley's Creek Colliery Co., District Court, Northern Ohio, May 18, 1916, indictment charging receipt of concessions from the Kanawha & Michigan Railway Co.; 25 counts.

23. United States *v.* Charles D. Koehler, District Court, Eastern Pennsylvania, June 12, 1916, information lodged charging unlawful use of pass.

24. United States *v.* Simon Lipfitz, District Court, St. Paul, Minn., December 9, 1915, indictment charging presentation of false claims; 2 counts.

25. United States *v.* L. B. McCargar Feed Mill Co., District Court, Western Missouri, April 3, 1916, indictment charging presentation of false claims; 10 counts.

26. United States *v.* McCargar Mfg. Co., District Court, Western Missouri, September 16, 1916, indictment charging presentation of false claims; 10 counts.

27. United States *v.* Hal Mangum, District Court, Eastern Missouri, June 10, 1916, indictment charging presentation of a false claim; 1 count.

28. United States *v.* Memphis Furniture Co., District Court, Western Tennessee, May 26, 1916, indictment charging false billing; 9 counts.

29. United States *v.* William H. Merritt, E. L. Merritt, and W. H. Merritt Co., District Court, Northern Illinois, January 10, 1916, indictment charging the soliciting, accepting, and receiving of concessions; 5 counts.

30. United States *v.* H. M. Modisett, general manager, St. Louis & Hannibal Railway Co., District Court, Eastern Missouri, December 7, 1915, indictment charging the making of false entries in the records of St. Louis & Hannibal Railway Co.; 1 count.

31. United States *v.* New York Central Railroad Co., District Court, Eastern Michigan, March 21, 1916, indictment charging grant of concessions to F. W. Stock & Son; 10 counts.

32. United States *v.* Norfolk & Chesapeake Coal Co., District Court, Eastern Michigan, March 21, 1916, indictment charging receipt of concessions from the Detroit & Toledo Shore Line Railroad Co.; 6 counts.

33. United States *v.* Levi Old, District Court, Eastern Missouri, June 10, 1916, indictment charging the soliciting of a concession from the St. Louis, Iron Mountain & Southern Railway Co.; 1 count.

34. United States *v.* Pennsylvania Railroad Co., District Court, Northern Ohio, October 19, 1916, indictment charging failure strictly to observe demurrage tariffs; 10 counts.

35. United States *v.* Pennsylvania Railroad Co., District Court, Northern Ohio, October 19, 1916, indictment charging grant of concessions to the Cambria Steel Co.; 40 counts.

36. United States *v.* Philadelphia & Reading Railway Co., District Court, Eastern Pennsylvania, June 10, 1916, indictment charging failure strictly to observe demurrage tariffs; 45 counts.

37. United States *v.* Philadelphia & Reading Railway Co., District Court, Eastern Pennsylvania, June 10, 1916, indictment charging participation in transportation by barge line without tariffs on file; 60 counts.

38. United States *v.* N. Rahall, District Court, Southern West Virginia, September 25, 1916, indictment charging presentation of a false claim; 1 count.

39. United States *v.* St. Louis & Hannibal Railway Co., and H. M. Modisett, general manager, District Court, Eastern Missouri, December 7, 1915, indictment charging receipt of concessions; 3 counts.

40. United States *v.* St. Louis, Iron Mountain & Southern Railway Co., District Court, Southern Illinois, November 5, 1915, indictment charging failure to observe routing instructions; 8 counts.

41. United States *v.* St. Louis & San Francisco Railroad Co., Union Pacific Railroad Co., Western Tie & Timber Co., J. A. Middleton, F. T. M. (Frisco) and E. A. Nixon, V. P. Western Tie & Timber Co., District Court, Western Missouri, November 24, 1915, indictment charging conspiracy to violate the Elkins act; 1 count.

42. United States *v.* Perry Small, traffic manager, Welsbank & Co., District Court, Northern California, November 29, 1915, indictment charging presentation of false claims; 3 counts.

43. United States *v.* G. Sommers & Co., District Court, St. Paul, Minn., December 9, 1915, indictment charging false billing; 10 counts.

44. United States *v.* W. T. Spurgin, District Court, Southern Ohio, December 11, 1915, indictment charging false billing; 15 counts.

45. United States *v.* F. W. Stock & Son, District Court, Eastern Michigan, March 21, 1916, indictment charging receipt of concessions from the New York Central Railroad Co.; 10 counts.

46. United States *v.* F. W. Stock & Son, District Court, Eastern Michigan, March 21, 1916, indictment charging false billing; 10 counts.

47. United States v. Stolte, Dangel & Foss Co., District Court, Western Wisconsin, November 16, 1915, indictment charging false billing; 8 counts.

48. United States *v.* Toledo & Ohio Central Railroad Co., District Court, Northern Ohio, May 18, 1916, indictment charging failure strictly to observe demurrage tariffs in not giving notice of arrival; 10 counts.

49. United States *v.* Toledo & Ohio Central Railroad Co., District Court, Northern Ohio, May 18, 1916, indictment charging failure strictly to observe demurrage tariffs in not collecting demurrage after notice; 10 counts.

50. United States *v.* Union Pacific Railroad Co. and St. Louis & San Francisco Railroad Co., District Court, Western Missouri, November 24, 1915, indictment charging the granting of concessions to the Western Tie & Timber Co.; 1 count.

51. United States *v.* United Brokerage Co., and R. L. Phillipi, president, District Court, Northern California, November 29, 1915, indictment charging presentation of false claims; 2 counts.

52. United States *v.* Welsbank & Co., District Court, Northern California, November 29, 1915, indictment charging presentation of false claims; 5 counts.

53. United States *v.* Alexander Weinreich, District Court, Eastern Pennsylvania, June 12, 1916, information lodged charging unlawful use of pass.

54. United States *v.* Western Tie & Timber Co., District Court, Western Missouri, November 24, 1915, indictment charging receipt of concessions from the Union Pacific Railroad Co. and St. Louis & San Francisco Railroad Co.; 1 count.

SUMMARY OF CASES CONCLUDED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1915, AND OCTOBER 31, 1916, INCLUSIVE.

1. United States *v.* Abilene & Southern Railway Co., District Court, Northern Texas, indictment charging acceptance and receipt of concessions on carrying company materials. October 9, 1916, plea of guilty entered and fine of $5,000 imposed.

2. United States *v.* Orton C. Collins, Agt. Wisconsin Auto Sales Co., District Court, Eastern Wisconsin, indictment charging presentation of false claims. November 12, 1915, verdict of guilty and fine of $200 imposed.

3. United States *v.* Connor Lumber & Land Co., District Court, Eastern Wisconsin, indictment charging receipt of concessions from the Laona & Northern Railroad Co. February 11, 1916, plea of nolo contendere entered and fine of $3,000 imposed.

4. United States *v.* Connor Lumber & Land Co., District Court, Eastern Wisconsin, indictment charging false billing. February 11, 1916, nolle prosequi entered.

5. United States *v.* Delaware, Lackawanna & Western Railroad Co., District Court, Southern New York, indictment charging grant of concessions to the Delaware, Lackawanna & Western Coal Co. December 24, 1915, verdict of not guilty.

6. United States *v.* Delaware, Lackawanna & Western Coal Co., District Court, Southern New York, indictment charging receipt of concessions from the Delaware, Lackawanna & Western Railroad Co. December 24, 1915, verdict of not guilty.

7. United States *v.* Detroit & Toledo Shore Line Railroad Co., District Court, Eastern Michigan, indictment charging grant of concessions on shipments of coal to the Norfolk & Chesapeake Coal Co. May 27, 1916, plea of guilty entered and fine of $3,000 imposed.

8. United States *v.* Bernard A. Eckhart of Eckhart Milling Co., District Court, Northern Illinois, indictment charging the soliciting, accepting, and receiving of rebates. June 21, 1916, verdict of not guilty.

9. United States *v.* Elgin, Joliet & Eastern Railroad Co., District Court, Northern Illinois, indictment charging knowingly accepting and transporting shipments at less than legal rates. Demurrer filed and overruled. May 15, 1916, verdict of guilty. Fine not yet imposed.

10. United States *v.* Erie Railroad Co. and Delaware & Hudson Co., District Court, Northern Ohio, indictment charging transportation of passengers at less than the published rates. November 15, 1915, plea of guilty entered and fines of $2,500 against Erie Railroad Co., and $1,000 against Delaware & Hudson Co., were imposed.

11. United States *v.* Finch Van Slyck & McConville, District Court, St. Paul, Minn., indictment charging false billing. June 16, 1916, verdict of not guilty.

12. United States *v.* Gerlach Live Stock Co. and W. H. Lyon, secretary, District Court, Northern California, indictment charging false billing. June 30, 1916, plea of guilty entered as to the corporation and fine of $1,000 imposed. Nolle prosequi entered as to W. H. Lyon.

13. United States *v.* Hecht & Campe, Inc., District Court, Southern Georgia, indictment charging false billing and receipt of concessions. October 9, 1916, plea of nolo contendere entered and fine of $100 imposed.

14. United States *v.* Hewitt-Lea Funck Co. and Wm. G. Funck, general manager, District Court, Western Washington, indictment charging false billing. June 5, 1916, plea of guilty entered and fines of $6,000 against corporation and $500 against Wm. G. Funck were imposed.

15. United States *v.* Illinois Central Railroad Co., District Court, Eastern Louisiana, indictment charging grant of switching service at New Orleans on import shipments of bananas without tariff authority. February 5, 1916, verdict of guilty and fine of $1,000 imposed. 230 Fed., 940.

16. United States *v.* George Johnson, District Court, Northern Illinois, indictment charging unlawful use of interstate pass. December 21, 1915, plea of guilty entered and defendant sentenced to 18 months in penitentiary.

17. United States *v.* John A. Johnson, District Court, Eastern Missouri, indictment charging falsification of records kept by a common carrier. October 2, 1916, plea of guilty entered and a fine of $1,000 was imposed.

18. United States *v.* Kellum Coffee & Manufacturing Co., District Court, Western Missouri, indictment charging false billing. Demurrer overruled. April 10, 1916, plea of guilty entered and fine of $250 imposed.

19. United States *v.* Charles D. Koehler, District Court, Eastern Pennsylvania, information lodged charging unlawful use of pass. June 12, 1916, plea of guilty entered and fine of $100 imposed.

20. United States *v.* Laona & Northern Railway Co., District Court, Eastern Wisconsin, indictment charging grant of concessions to Connor Lumber & Land Co. February 11, 1916, plea of nolo contendere entered and fine of $3,000 imposed.

21. United States *v.* Laser Grain Co., District Court, Western Missouri, indictment charging presentation of false claims. Demurrer overruled. February 11, 1916, verdict of guilty and fine of $1,000 imposed.

22. United States *v.* Lehigh Coal & Navigation Co., District Court, New Jersey, indictment charging receipt of concessions from the Central Railroad Company of New Jersey. March 16, 1916, verdict of guilty and fine of $100,000 imposed.

23. United States *v.* Simon Lipfitz, District Court, St. Paul, Minn., indictment charging presentation of false claims. June 16, 1916, verdict of not guilty.

24. United States *v.* H. M. Modisett, general manager, St. Louis & Hannibal Railway Co., District Court, Eastern Missouri, indictment charging the making of false entries in the records of St. Louis & Hannibal Railway Co. May 22, 1916, nolle prosequi entered.

25. United States *v.* New Orleans & Northeastern Railway Co., District Court, Eastern Louisiana, indictment charging failure to observe switching tariffs at New Orleans. February 5, 1916, verdict of guilty and fine of $750 imposed.

26. United States *v.* New York Central Railroad Co., District Court, Eastern Michigan, indictment charging grant of concessions to F. W. Stock & Son. July 10, 1916, plea of guilty entered and fine of $2,500 imposed.

27. United States *v.* Norfolk & Chesapeake Coal Co., District Court, Eastern Michigan, indictment charging receipt of concessions from the Detroit & Toledo Shore Line Railroad Co. May 27, 1916, plea of guilty entered and fine of $3,000 imposed.

28. United States *v.* Northern Central Railway Co., District Court, Western New York, indictment charging the granting of concessions to the Mineral Railroad and Mining Co., by failure to collect royalties on coal mined. December 18, 1915, verdict of guilty and fine of $20,000 imposed.

29. United States *v.* Pennsylvania Co., District Court, Northern Illinois, indictment charging grant of rebates to the W. H. Merritt Co. December 7, 1915, verdict of guilty. Fine not yet imposed.

30. United States *v.* Irving Pitt Manufacturing Co., District Court, Western Missouri, indictment charging false billing. December 21, 1915, demurrer sustained.

31. United States *v.* Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co., District Court, Northern Illinois, indictment charging grant of rebates to W. H. Merritt Co. December 7, 1915, verdict of guilty. Fine not yet imposed.

32. United States *v.* Philadelphia & Reading Railway Co., District Court, Eastern Pennsylvania, indictment charging failure strictly to observe demurrage tariffs. June 1, 1916, demurrer sustained. New indictment returned. 225 Fed., 301; 227 Fed., 206.

33. United States *v.* Philadelphia & Reading Railway Co., District Court, Eastern Pennsylvania, indictment charging grant of concessions by failure to collect demurrage. June 1, 1916, demurrer sustained.

34. United States *v.* Philadelphia & Reading Railway Co., District Court, Eastern Pennsylvania, indictment charging participation in transportation without tariffs on file and grant of privileges not shown in tariffs. June 1, 1916, demurrer sustained. New indictment returned. 225 Fed., 301; 227 Fed., 206.

35. United States *v.* Potlatch Lumber Co. and Joseph B. Cunningham, District Court, Eastern Washington, indictment charging false billing. October 1, 1914, plea of guilty entered by corporation and fine of $2,000 imposed. January 21, 1916, verdict of not guilty as to Cunningham.

36. United States *v.* Richards & Conover Hardware Co., District Court, Western Missouri, indictment charging false billing. December 21, 1915, plea of guilty entered and fine of $40 imposed.

37. United States *v.* St. Louis, Iron Mountain & Southern Railway Co., District Court, Eastern Illinois, indictment charging failure to observe routing instructions. June 23, 1916, plea of guilty entered and fine of $500 imposed.

38. United States *v.* St. Louis & Hannibal Railway Co. and H. M. Modisett, general manager, District Court, Eastern Missouri, indictment charging receipt of concessions. May 22, 1916, plea of guilty entered by corporation and fine of $3,000 imposed. Nolle prosequi entered as to indictment against H. M. Modisett.

39. United States *v.* W. T. Spurgin, District Court, Southern Ohio, indictment charging false billing. January 10, 1916, plea of guilty entered and fine of $250 imposed.

40. United States *v.* F. W. Stock & Son, District Court, Eastern Michigan, indictment charging receipt of concessions from the New York Central Railroad Co. July 6, 1916, plea of guilty entered and fine of $1,500 imposed.

41. United States *v.* F. W. Stock & Son, District Court, Eastern Michigan, indictment charging false billing. July 6, 1916, plea of guilty entered and fine of $1,000 imposed.

42. United States *v.* Stock Yards Cotton & Linseed Oil Co. and H. G. Cherry, manager, District Court, Kansas, indictment charging the soliciting of information from carriers' agents concerning shipments of competitors. April 22, 1916, plea of guilty entered by corporation and fine of $400 imposed. Nolle prosequi entered as to indictment against H. G. Cherry.

43. United States *v.* Stolte, Dangel & Foss Co., District Court, Western Wisconsin, indictment charging false billing. December 10, 1915, plea of nolo contendere entered and fine of $100 imposed.

44. United States *v.* Morris Stulsaft Co., Morris Stulsaft and Jacob Stulsaft, District Court, Northern California, indictment charging presentation of false claims. December 8, 1915, pleas of guilty entered by corporation and Jacob L. Stulsaft and fines of $1,500 and $500, respectively, were imposed. Nolle prosequi entered as to indictment against Morris Stulsaft.

45. United States *v.* Swift & Co., District Court, Northern Illinois, indictment charging receipt of concessions from the Ann Arbor Railroad Co. and false billing. May 3, 1916, verdict of guilty. Fine not yet imposed.

46. United States *v.* Frederick D. Underwood, president Erie Railroad Co., District Court, Northern Ohio, indictment charging transportation of passengers at less than published rates. November 15, 1915, nolle prosequi entered.

47. United States *v.* United Brokerage Co. and R. L. Phillipi, president, District Court, Northern California, indictment charging presentation of false claims. December 9, 1915, pleas of guilty entered and fines of $250 against corporation and $25 against R. L. Phillipi were imposed.

48. United States *v.* Fred. D. Van Vechten, District Court, Eastern Pennsylvania, indictment charging presentation of false claims. April 14, 1916, plea of guilty entered and fine of $375 imposed.

49. United States *v.* Valley Fruit Produce Association and F. W. Shields, manager, District Court, Eastern Washington, indictment charging false billing. January 15, 1916, pleas of guilty entered and fines of $150 against corporation and $500 against F. W. Shields were imposed.

50. United States *v.* Alexander Weinreich, District Court, Eastern Pennsylvania, information lodged charging unlawful use of interstate pass. June 12, 1916, plea of guilty entered and fine of $100 imposed.

51. United States *v.* Western Pacific Railway Co., District Court, Nevada, indictment charging grant of concessions to Simmons Manufacturing Co. November 24, 1915, verdict of not guilty.

52. United States *v.* Walter Withers, District Court, Northern Alabama, indictment charging unlawful use of interstate pass. January 10, 1916, nolle prosequi entered.

53. United States *v.* Wisconsin Auto Sales Co., District Court, Eastern Wisconsin, indictment charging presentation of false claims. Demurrer overruled. November 12, 1915, verdict of guilty and fine of $500 imposed.

APPENDIX B.

SUMMARIES SHOWING ACTION TAKEN SINCE THE PERIOD COVERED BY THE LAST ANNUAL REPORT WITH RESPECT TO CASES INVOLVING ORDERS OR REQUIREMENTS OF THE COMMISSION, AND STATUS ON OCTOBER 31, 1916, OF CASES PENDING IN THE COURTS.

CASES DECIDED BY THE COURTS SINCE OCTOBER 31, 1915.

SUPREME COURT OF THE UNITED STATES.

Philadelphia & Reading Ry. Co. v. *United States, Interstate Commerce Commission et al.*, 240 U. S., 334.

Suit in equity to annul an order of the Commission requiring carriers to remove discrimination occasioned by their failure to maintain to Jersey City the same rates on cement from Evansville, Pa., as are maintained from other points in Pennsylvania.

Decree of District Court, Eastern District of Pennsylvania, denying injunction, 219 Fed., 988, reversed.

O'Keefe, Receiver, New Orleans, Texas & Mexico R. Co. v. *United States and Interstate Commerce Commission*, 240 U. S., 294.

Suit in equity to annul second supplemental order of the Commission in the *Tap Line case.*

Decree of District Court, Eastern District of Louisiana, denying injunction, affirmed.

DISTRICT COURTS OF THE UNITED STATES.

Pennsylvania R. Co. v. *United States and Interstate Commerce Commission*, 227 Fed., 911, Western District of Pennsylvania.

Suit in equity to annul an order of the Commission requiring petitioner to furnish tank cars to the Crew-Levick Co.

Injunction granted. Appealed to Supreme Court. Argued, submitted and taken under advisement.

Pennsylvania R. Co. v. *United States and Interstate Commerce Commission*, 227 Fed., 911, Western District of Pennsylvania.

Suit in equity to annul an order of the Commission requiring petitioner to furnish tank cars to the Pennsylvania Paraffine Works.

Injunction granted. Appealed to Supreme Court. Argued, submitted and taken under advisement.

Merchants' & Manufacturers' Traffic Association of Sacramento et al. v. *United States, Interstate Commerce Commission et al.*, 231 Fed., 292, Northern District of California.

Suit in equity to annul certain orders of the Commission relieving carriers from long-and-short-haul provisions of fourth section, commodity rates from Missouri River territory to Pacific coast terminal cities.

Injunction granted. Appealed to Supreme Court. Argued, submitted and taken under advisement.

Nashville Grain Exchange et al. v. *United States, Interstate Commerce Commission et al.*, Northern District of Georgia.

Suit in equity to annul an order of the Commission requiring carriers to desist from certain discriminatory practices with respect to the reshipping of grain, grain products, and hay at Nashville, Tenn.

Injunction denied and bill dismissed.

Lehigh Valley R. Co. v. *United States and Interstate Commerce Commission*, Eastern District of Pennsylvania.

Suit in equity to annul an order of the Commission denying application of petitioner for authority to continue operation of lake line steamers under Panama Canal act.

Injunction denied and bill dismissed. Appealed to Supreme Court.

St. Louis Southwestern Ry. Co. et al. v. *United States and Interstate Commerce Commission*, Western District of Kentucky.

Suit in equity to annul an order of the Commission establishing through routes and joint rates on logs and lumber from points in Louisiana and Arkansas to Paducah, Ky.

Injunction denied and bill dismissed. Appealed to Supreme Court.

McLean Lumber Company et al. v. *United States and Interstate Commerce Commission*, Eastern District of Tennessee.

Suit in equity to annul an order of the Commission prescribing rates on logs from points on the Alabama Great Southern Railroad to Chattanooga, Tenn.

Injunction denied and bill dismissed.

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Interstate Commerce Commission v. *Milton H. Smith.*

Action under section 12 of the act to regulate commerce to compel the president of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes.

Decree for petitioner. Respondent will appeal.

Interstate Commerce Commission v. *Addison R. Smith.*

Action under section 12 to compel the third vice president of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes.

Decree for petitioner. Respondent will appeal.

Interstate Commerce Commission v. *George W. Jones.*

Action under section 12 to compel an attorney of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes.

Decree for petitioner. Respondent will appeal.

CASES DISMISSED IN THE COURTS SINCE OCTOBER 31, 1915.

SUPREME COURT OF THE UNITED STATES.

United States and Interstate Commerce Commission v. *St. Louis, Iron Mountain & Southern Ry. Co. et al.*, 241 U. S., 693.

Suit in equity to annul an order of the Commission requiring carriers to remove discrimination resulting from their application of higher rates on logs and lumber to Metropolis, Ill., than to Cairo, Ill.

Appeal from decree of District Court, Eastern District of Illinois, enjoining order as to Iron Mountain and Cotton Belt Railroads, 217 Fed., 80, dismissed on motion of the United States.

United States and Interstate Commerce Commission v. *Nashville, Chattanooga & St. Louis Ry.*

Application for mandamus to compel the appellee to permit inspection by Commission of accounts, records, memoranda, and correspondence files.

Appeal from decree of District Court, Middle District of Tennessee, denying writ, 217 Fed., 254, dismissed by United States, Commission not objecting.

DISTRICTS COURTS OF THE UNITED STATES.

United States Pipe Line Co. v. *United States and Interstate Commerce Commission*, Eastern District of Pennsylvania.

Suit in equity to annul an order of the Commission requiring petitioner to file schedules of its rates and charges for the interstate transportation of oil by means of pipe lines.

Dismissed on motion of petitioner.

New York, New Haven & Hartford R. Co. v. *United States and Interstate Commerce Commission*, District of Connecticut.

Suit in equity to annul an order of the Commission reducing commutation passenger fares between certain points in Connecticut and New York City.

Dismissed by stipulation at instance of petitioner.

Louisville & Nashville R. Co. v. *United States and Interstate Commerce Commission*, Western District of Kentucky.

Suit in equity to annul an order of the Commission denying to petitioner authority under the fourth section to continue to charge lower class rates on interstate freight traffic from Louisville, Ky., to Junction City, Ky., than are contemporaneously in effect on like traffic to Lebanon, Ky.

Dismissed on motion of petitioner.

Warren, Johnsville & Saline River R. Co. v. *United States and Interstate Commerce Commission*, Western District of Arkansas.

Suit in equity to annul an order of the Commission in the *Tap Line case.*

Dismissed on motion of petitioner.

Brown Drug Company et al. v. *United States and Interstate Commerce Commission*, Northern District of Iowa.

Suit in equity to annul an order of the Commission requiring carriers to desist from charging higher express rates between Sioux City, Iowa, and points in South Dakota than are contemporaneously applied to similar transportation between points in South Dakota.

Interlocutory injunction denied and bill dismissed without prejudice on motion of petitioner.

CASES PENDING IN THE COURTS OCTOBER 31, 1916.

SUPREME COURT OF THE UNITED STATES.

United States ex rel. Louisville Cement Co. v. *Interstate Commerce Commission.*

Application for mandamus to compel the Commission to reverse a ruling to the effect that certain claims for damages were barred by the statute of limitations because not filed within two years from the date of delivery of the shipments involved.

Appeal from decree of Court of Appeals of the District of Columbia affirming an order of Supreme Court of the District of Columbia denying writ and dismissing petition.

Louisville & Nashville R. Co. v. *United States and Interstate Commerce Commission.*

Suit in equity to annul an order of the Commission denying in part and granting in part relief from long-and-short-haul provisions of fourth section, as to traffic shipped through Bowling Green to Louisville, Ky., and Nashville, Tenn.

Appeal from decree of District Court, Western District of Kentucky, denying injunction and dismissing petition, 225 Fed., 571.

Lehigh Valley R. Co. v. *United States.*

Suit in equity to enjoin continued payment by appellant of commissions or salaries to George W. Sheldon & Co., as import agents.

Appeal from decree of District Court, Southern District of New York, granting injunction, 222 Fed., 685.

Manufacturers' Ry. Co. et al. v. *United States and Interstate Commerce Commission.*

Suit in equity to annul an order of the Commission directing the cancellation of certain trunk-line tariffs providing for allowances to Manufacturers' Railway.

Appeal from decree of District Court, Eastern District of Missouri, denying injunction.

Manufacturers' Ry. Co. v. *United States and Interstate Commerce Commission.*

Suit in equity to annul an order of the Commission requiring appellant and other carriers to discontinue charging on traffic from points served by Manufacturers' Railway to points in states other than Missouri of rates in excess of $2.50 per car higher than rates contemporaneously in effect from St. Louis, Mo., to such points.

Appeal from decree of District Court, Eastern District of Missouri, denying injunction.

Louisville & Nashville R. Co. et al. v. *United States, Interstate Commerce Commission et al.*

Suit in equity to annul an order of the Commission requiring carriers to abate discrimination in switching practices at Nashville, Tenn.

Appeal from decree of District Court, Middle District of Tennessee, denying injunction and dismissing petition, 227 Fed., 258, 273. Argued, submitted and taken under advisement.

United States Interstate Commerce Commission et al. v. *Pennsylvania R. Co.*

Suit in equity to annul an order of the Commission requiring appellee to furnish tank cars to the Crew-Levick Co.

Appeal from decree of District Court, Western District of Pennsylvania, granting injunction, 227 Fed., 911. Argued, submitted and taken under advisement.

United States, Interstate Commerce Commission et al. v. *Pennsylvania R. Co.*

Suit in equity to annul an order of the Commission requiring appellee to furnish tank cars to the Pennsylvania Paraffine Works.

Appeal from decree of District Court, Western District of Pennsylvania, granting injunction, 227 Fed., 911. Argued, submitted and taken under advisement.

United States, Interstate Commerce Commission et al. v. *Merchants' & Manufacturers' Traffic Association of Sacramento et al.*

Suit in equity to annul certain orders of the Commission relieving carriers from long-and-short-haul provisions of fourth section, commodity rates from Missouri River territory to Pacific coast terminal cities.

Appeal from decree of District Court, Northern District of California, granting injunction, 231 Fed., 292. Argued, submitted and taken under advisement.

United States and Interstate Commerce Commission v. *Illinois Central R. Co.*

Suit in equity to annul or set aside a notice or order of the Commission assigning for hearing certain complaints involving reparation for appellee's failure to furnish coal cars.

Appeal from decree of District Court, Eastern District of Illinois, granting injunction.

Lehigh Valley R. Co. v. *United States and Interstate Commerce Commission.*

Suit in equity to annul an order of the Commission denying application of petitioner for authority to continue operation of lake line steamers under Panama Canal act.

Appeal from decree of District Court, Eastern District of Pennsylvania, denying injunction and dismissing petition.

St. Louis Southwestern Ry. Co. et al. v. *United States and Interstate Commerce Commission.*

Suit in equity to annul an order of the Commission establishing through routes and joint rates on logs and lumber from points in Louisiana and Arkansas to Paducah, Ky.

Appeal from decree of District Court, Western District of Kentucky, denying injunction and dismissing petition.

DISTRICT COURTS OF THE UNITED STATES.

Louisville & Nashville R. Co. v. *United States and Interstate Commerce Commission,* Western District of Virginia.

Suit in equity to annul an order of the Commission prohibiting advances in coal and coke rates from points on the Louisville & Nashville Railroad to points on the Cleveland, Cincinnati, Chicago & St. Louis Railway, and prescribing maximum rates on coal from Black Mountain and other mine groups to points north of Ohio River.

Pending dismissal or reargument after decision by Commission on rehearing.

Central Vermont Ry. Co. et al. v. *United States and Interstate Commerce Commission,* District of Nebraska.

Suit in equity to annul an order of the Commission directing the establishment on monumental granite from quarry points in Vermont to points in Nebraska of a classification rating and rate not in excess of those contemporaneously applied to dressed and polished building granite.

Injunction denied. Motion to dismiss petition under advisement.

Dorcheat Valley R. Co. v. *United States and Interstate Commerce Commission,* Western District of Louisiana.

Suit in equity to annul an order of the Commission fixing a maximum division in the *Tap Line case.*

Illinois Central R. Co. et al. v. *United States and Interstate Commerce Commission,* Northern District of Illinois.

Suit in equity to annul an order of the Commission requiring carriers to discontinue charging for the transportation of salt from points in Michigan to points in Illinois and other states rates in excess of 2½ cents per 100 pounds

higher than rates contemporaneously in effect from Chicago and Chicago rate points to said destinations.

Interlocutory injunction denied. Pending final hearing.

Missouri, Kansas & Texas Ry. Co. v. *United States, Interstate Commerce Commission et al.*, Northern District of Texas.

Suit in equity to annul an order of the Commission awarding reparation on shipments of cattle from points in Texas and other states to points in Illinois and other states.

St. Louis, Iron Mountain & Southern Ry. Co. v. *United States, Interstate Commerce Commission et al.*, Northern District of Texas.

Suit in equity to annul an order of the Commission awarding reparation on shipments of cattle from points in Texas and other states to points in Illinois and other states.

Chicago & Eastern Illinois R. Co. v. *United State, Interstate Commerce Commission et al.*, Northern District of Texas.

Suit in equity to annul an order of the Commission awarding reparation on shipments of cattle from points in Texas and other states to points in Illinois and other states.

St. Louis & San Francisco R. Co. v. *United States, Interstate Commerce Commission et al.*, Northern District of Texas.

Suit in equity to annul an order of the Commission awarding reparation on shipments of cattle from points in Texas and other states to points in Illinois and other states.

United States v. *Erie R. Co.*, Southern District of New York.

Action at law for penalty provided by section 16 for failure of defendant to comply with an order of the Commission prescribing rates on carbide of calcium, Niagara Falls to New York City.

United States v. *Delaware, Lackawanna & Western R. Co.*, Middle District of Pennsylvania.

Action at law for penalty prescribed by section 16 for failure of defendant to comply with an order of the Commission prescribing rates on Portland cement, New Village, N. J., to Cornish, Me.

Interstate Commerce Commission v. *South Georgia Ry. Co.*, Southern District of Georgia.

Suit in equity to enjoin issuance to nonexcepted persons of passes stipulated for in deeds to rights of way.

Commonwealth of Massachusetts v. *United States and Interstate Commerce Commission*, District of Massachusetts.

Suit in equity to annul an order of the Commission requiring the Boston & Maine Railroad to desist from absorbing connecting-line charges on interstate traffic to and from Commonwealth Pier while refusing to absorb similar charges to and from the docks of the National Dock & Storage Warehouse Co., at Boston, Mass.

United States v. *Hanover Ry. Co.*, Northern District of Illinois.

Action at law for penalty provided by section 6 for failure of defendant to comply with an order of the Commission requiring the filing of indexes to freight and passenger tariffs.

Union Iron Works et al. v. *United States and Interstate Commerce Commission*, Northern District of California.

Suit in equity to annul certain orders of the Commission defining long-and-short-haul rates on steel from eastern defined territory to Pacific coast terminals.

Interlocutory injunction denied. Pending final hearing.

Skinner & Eddy Corporation v. *United States and Interstate Commerce Commission*, District of Oregon.

Suit in equity to annul certain orders of the Commission defining long-and-short-haul rates on steel from eastern defined territory to Pacific coast terminals.

Application for injunction withdrawn account suspension by Commission of tariffs involved.

Brown Drug Co. et al. v. *United States, Interstate Commerce Commission et al.*, Northern District of Iowa.

Suit in equity to annul an order of the Commission requiring carriers to desist from charging higher express rates between Sioux City, Iowa, and points in South Dakota than are contemporaneously applied to similar transportation between points in South Dakota. (New action following dismissal of similar suit between same parties.)

Eastern Texas R. Co. et al. v. *Railroad Commission of Texas et al.*, Western District of Texas.

Suit in equity to enjoin prosecution by Railroad Commission of Texas and others of suits based upon charging by carriers of rates published in compliance with an order entered by the Commission in the *Shreveport case.*

SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Interstate Commerce Commission v. *Milton H. Smith.*

Action under section 12 of the act to regulate commerce to compel the president of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes.

Decree for petitioner. Respondent will appeal.

Interstate Commerce Commission v. *Addison R. Smith.*

Action under section 12 to compel the third vice president of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes.

Decree for petitioner. Respondent will appeal.

Interstate Commerce Commission v. *George W. Jones.*

Action under section 12 to compel an attorney of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes.

Decree for petitioner. Respondent will appeal.

APPENDIX C.

STATISTICAL SUMMARIES.

Summary of statistics from periodical reports of carriers to the Commission.

Summary of accident statistics.

SUMMARY OF STATISTICS FROM PERIODICAL REPORTS OF CARRIERS TO THE COMMISSION.

No particular comment on these figures appears to be necessary at this time further than to say that in some instances the 1915 figures shown in this report differ somewhat from those shown in last year's report, because of reclassifications, corrections, etc.

Summary of monthly reports of revenues and expenses of large steam roads.

[This summary includes all roads reporting operating revenues in excess of $1,000,000 for the year ended June 30, 1915.]

Item.	Year ended June 30—		Average per mile or road operated.	
	1916	1915	1916	1915
Average number of miles of road operated	229,229.09	227,826.36	.....	.....
Operating revenues:				
Freight	$2,409,393,699	$1,986,563,410	$10,511	$8,720
Passenger	673,472,119	630,053,640	2,938	2,765
Mail	60,057,967	56,940,096	262	250
Express	81,014,684	69,034,334	353	303
All other transportation	97,380,150	83,790,237	425	368
Incidental	73,263,346	59,831,717	319	262
Joint facility—Cr	3,599,323	3,450,965	16	15
Joint facility—Dr	1,373,054	1,216,086	6	5
Total	3,396,808,234	2,888,448,313	14,818	12,678
Operating expenses:				
Maintenance of way and structures	405,389,892	365,261,171	1,768	1,603
Maintenance of equipment	558,777,771	498,634,128	2,438	2,189
Traffic	60,604,496	59,385,117	264	261
Transportation	1,096,632,406	1,017,122,845	4,784	4,464
Miscellaneous operations	25,712,804	23,173,115	112	102
General	79,392,991	74,580,926	346	327
Transportation for investment—Cr	6,506,127	6,960,462	28	31
Total	2,220,004,233	2,031,196,840	9,684	8,915
Net revenue from railway operations	1,176,804,001	857,251,473	5,134	3,763
Railway tax accruals	146,754,477	134,610,132	640	591
Uncollectible railway revenues	807,720	650,655	4	3
Railway operating income	1,029,241,804	721,990,686	4,490	3,169

Comparison of operating revenues and expenses of steam roads in the United States reporting annual operating revenues in excess of $1,000,000 for the month of July, this being latest month of current year for which completed figures are available.

Item.	July.		
	1916	1915	1914
Average number of miles operated	230,406.49	228,713.39	227,748.96
Revenues:			
Freight	$203,854,693	$170,020,967	$168,475,296
Passenger	70,185,753	63,925,578	64,394,963
Mail	5,050,784	4,869,355	4,630,985
Express	7,473,544	6,137,519	5,744,906
All other transportation	8,811,378	7,568,356	7,423,486
Incidental	7,363,843	5,823,727	5,165,440
Joint facility—Cr	295,707	285,260	302,725
Joint facility—Dr	117,885	104,399	101,383
Total railway operating revenues	302,917,817	258,526,363	256,036,418

Comparison of operating revenues and expenses of steam roads in the United States, etc.—Continued.

Item.	July.		
	1916	1915	1914
Expenses:			
Maintenance of way and structures	$37,622,588	$34,573,243	$35,104,294
Maintenance of equipment	49,271,398	41,958,125	44,080,021
Traffic	5,465,459	5,095,482	5,053,235
Transportation	94,252,613	81,945,757	86,757,822
Miscellaneous operations	2,394,750	2,258,252	2,106,515
General	7,008,940	6,346,789	6,101,710
Transportation for investment—Cr	655,936	650,787	498,332
Total railway operating expenses	195,359,812	171,526,861	178,705,265
Net revenue from railway operations	107,558,005	86,999,502	77,331,153
Railway tax accruals	12,854,930	11,574,582	11,360,267
Uncollectible railway revenues	42,790	47,744	23,245
Railway operating income	94,660,285	75,377,176	65,947,641

AVERAGES PER MILE OF LINE OPERATED.

Revenues:			
Freight	$885	$743	$740
Passenger	305	280	283
Mail	22	21	20
Express	33	27	25
All other transportation	38	33	32
Incidental	32	25	23
Joint facility—Cr	1	1	1
Joint facility—Dr	1	.....	.....
Total railway operating revenues	1,315	1,130	1,124
Expenses:			
Maintenance of way and structures	163	151	154
Maintenance of equipment	214	184	194
Traffic	24	22	22
Transportation	409	358	381
Miscellaneous operations	10	10	9
General	30	28	27
Transportation for investment—Cr	2	3	2
Total railway operating expenses	848	750	785
Net revenue from railway operations	467	380	339
Railway tax accruals	56	50	50
Uncollectible railway revenues	.....	.....	.....
Railway operating income	411	330	289

Mileage covered by operations of the principal express companies on June 30, 1916 and 1915.

Name of carrier.	Steam road mileage.		Other lines mileage.		Total mileage.	
	1916	1915	1916	1915	1916	1915
Total	*Miles.* 253,750.04	*Miles.* 251,665.24	*Miles.* 43,388.50	*Miles.* 49,440.70	*Miles.* 297,138.54	*Miles.* 301,105.94
Adams Express Co	38,020.96	37,859.94	7,132.42	7,070.28	45,153.38	44,930.22
American Express Co	71,223.07	71,363.66	3,056.78	2,929.13	74,279.85	74,292.79
Canadian Express Co	10,765.93	8,851.50	1,284.00	625.00	12,049.93	9,476.50
Great Northern Express Co	8,785.49	9,066.31	1,052.50	516.49	9,837.99	9,582.80
Northern Express Co	7,945.60	7,895.93	329.10	337.10	8,274.70	8,233.03
Southern Express Co	33,986.60	33,887.60	778.00	778.00	34,764.60	34,665.60
Wells Fargo & Co	77,805.07	77,539.00	29,724.13	37,153.13	107,529.20	114,692.13
Western Express Co	5,217.32	5,201.30	31.57	31.57	5,248.89	5,232.87

Revenues and expenses of the principal express companies for the years ended June 30, 1916 and 1915, as returned in monthly reports.

Item.	Grand total.		Adams Express Co.	
	1916	1915	1916	1915
Revenues:				
Express, domestic	$172,655,203.73	$143,926,646.72	$42,018,735.04	$34,273,991.34
Express, foreign	715,762.56	559,588.06	89,358.01	111,153.03
Miscellaneous	338,445.03	340,508.80	292,317.85	246,341.36
Charges for transportation	173,709,411.32	144,826,743.58	42,400,410.90	34,631,485.73
Express privileges—Dr	87,971,136.52	73,507,565.15	20,886,133.76	17,167,040.90
Revenue from transportation	85,738,274.80	71,319,178.43	21,514,277.14	17,464,444.83
Operations other than transportation	5,497,237.98	4,168,215.70	583,009.03	508,497.83
Total operating revenues	91,235,512.78	75,487,394.13	22,097,286.17	17,972,942.66
Expenses:				
Maintenance	4,527,474.33	4,115,495.86	1,248,127.83	1,226,621.11
Traffic	759,106.11	713,280.18	105,669.92	106,232.37
Transportation	68,020,528.78	61,681,396.79	17,458,501.47	15,677,714.23
General	5,784,963.49	5,019,806.61	1,106,480.16	1,078,367.19
Operating expenses	79,092,072.71	71,529,979.44	19,918,779.38	18,088,934.90
Net operating revenue (or *deficit*)	12,143,440.07	3,957,414.69	2,178,506.79	*115,992.24*
Uncollectible revenue from transportation	34,028.82	21,308.04	7,113.27	6,074.87
Express taxes	1,548,761.03	1,379,894.16	243,832.05	194,930.55
Operating income (or *loss*)	10,560,650.22	2,556,212.49	1,927,561.47	*316,997.66*

Item.	American Express Co.		Canadian Express Co.	
	1916	1915	1916	1915
Revenues:				
Express, domestic	$57,039,123.80	$46,281,923.26	$3,879,774.69	$3,112,539.22
Express, foreign	546,979.47	378,645.54	2,972.90	4,573.81
Miscellaneous	33,279.64	74,846.92	.....	.....
Charges for transportation	57,619,382.91	46,735,415.72	3,882,747.59	3,117,113.03
Express privileges—Dr	28,788,259.12	23,458,860.54	1,990,327.92	1,554,427.61
Revenue from transportation	28,831,123.79	23,276,555.18	1,892,419.67	1,562,685.42
Operations other than transportation	3,150,022.98	2,388,646.13	121,627.94	96,983.56
Total operating revenues	31,981,146.77	25,665,201.31	2,014,047.61	1,659,668.98
Expenses:				
Maintenance	1,771,952.74	1,459,750.95	43,883.88	34,366.30
Traffic	274,239.64	237,079.33	10,571.04	8,382.40
Transportation	23,727,193.43	21,194,716.79	1,507,602.50	1,409,120.19
General	2,376,850.44	1,768,757.93	136,450.51	124,073.25
Operating expenses	28,150,236.25	24,660,305.00	1,698,507.93	1,575,942.14
Net operating revenue (or *deficit*)	3,830,910.52	1,004,896.31	315,539.68	83,726.84
Uncollectible revenue from transportation	10,087.87	3,149.67	529.57	100.57
Express taxes	540,085.16	417,934.26	50,945.50	51,948.57
Operating income (or *loss*)	3,280,737.49	583,812.38	264,064.61	31,677.70

Revenues and expenses of the principal express companies for the years ended June 30, 1916 and 1915, as returned in monthly reports—Continued.

Item.	Globe Express Co.[1]		Great Northern Express Co.	
	1916	1915	1916	1915
Revenues:				
Express, domestic	$1,362.24	$600,628.46	$3,384,658.25	$3,137,721.09
Express, foreign				
Miscellaneous		920.76	240.00	395.00
Charges for transportation	1,362.24	601,549.22	3,384,898.25	3,138,116.09
Express privileges—Dr.	447.12	303,433.60	2,062,411.55	1,903,533.18
Revenue from transportation	915.12	298,115.62	1,322,486.70	1,234,582.91
Operations other than transportation	10.58	8,110.82	58,889.44	52,688.87
Total operating revenues	925.70	306,226.44	1,381,376.14	1,287,271.78
Expenses:				
Maintenance	138.89	8,792.65	35,972.81	37,901.83
Traffic	373.71	11,209.71	14,504.25	14,368.85
Transportation	318.65	233,588.91	968,650.99	943,702.70
General	5,357.38	45,039.52	60,894.97	62,602.30
Operating expenses	6,188.63	298,630.79	1,080,023.02	1,058,575.68
Net operating revenue (or *deficit*)	*5,262.93*	7,595.65	301,353.12	228,696.10
Uncollectible revenue from transportation			213.41	123.60
Express taxes	4,200.00	11,195.49	45,980.56	45,155.25
Operating income (or *loss*)	*9,462.93*	*3,599.84*	255,159.15	183,417.25

Item.	Northern Express Co.		Southern Express Co.	
	1916	1915	1916	1915
Revenues:				
Express, domestic	$3,049,796.62	$2,778,592.24	$16,486,335.64	$14,077,767.07
Express, foreign			17,226.15	6,432.70
Miscellaneous			900.00	900.00
Charges for transportation	3,049,796.62	2,778,592.24	16,504,461.79	14,085,099.77
Express privileges—Dr.	1,652,670.70	1,515,586.42	8,488,215.47	7,278,117.10
Revenue from transportation	1,397,125.92	1,263,005.82	8,016,246.32	6,806,982.67
Operations other than transportation	47,365.97	40,250.83	357,401.19	300,882.09
Total operating revenues	1,444,491.89	1,303,256.65	8,373,647.51	7,107,864.76
Expenses:				
Maintenance	37,348.52	36,438.42	310,386.03	248,077.80
Traffic	10,954.80	12,091.63	79,311.90	94,500.00
Transportation	973,377.48	957,557.43	5,549,830.02	5,256,361.82
General	59,379.59	54,529.99	697,591.59	703,861.29
Operating expenses	1,081,060.39	1,060,617.47	6,637,119.54	6,302,800.91
Net operating revenue (or *deficit*)	363,431.50	242,639.18	1,736,527.97	805,063.85
Uncollectible revenue from transportation	813.21	204.88	1,152.62	662.10
Express taxes	62,930.02	60,641.68	173,137.00	172,957.77
Operating income (or *loss*)	299,688.27	181,792.62	1,562,238.35	631,443.98

[1] Discontinued operations on Apr. 30, 1915.

Revenues and expenses of the principal express companies for the years ended June 30, 1916 and 1915, as returned in monthly reports—Continued.

Item.	Wells Fargo & Co.		Western Express Co.	
	1916	1915	1916	1915
Revenues:				
Express, domestic	$45,366,216.32	$38,482,060.63	$1,429,201.13	$1,181,423.41
Express, foreign	59,226.03	58,782.98	.....	.....
Miscellaneous	9,222.61	14,820.54	2,484.93	2,284.22
Charges for transportation	45,434,664.96	38,555,664.15	1,431,686.06	1,183,707.63
Express privileges—Dr.	23,414,248.51	19,724,414.44	688,422.37	602,151.36
Revenue from transportation	22,020,416.45	18,831,249.71	743,263.69	581,556.27
Operations other than transportation	1,134,902.26	734,633.25	44,008.59	37,522.32
Total operating revenues	23,155,318.71	19,565,882.96	787,272.28	619,078.59
Expenses:				
Maintenance	1,057,077.45	1,043,146.66	22,586.18	20,400.14
Traffic	256,510.12	221,308.17	6,970.73	8,107.72
Transportation	17,245,991.31	15,470,180.01	589,062.93	538,454.71
General	1,288,108.65	1,126,204.70	53,850.20	56,370.44
Operating expenses	19,847,687.53	17,860,839.54	672,470.04	623,333.01
Net operating revenue (or *deficit*)	3,307,631.18	1,705,043.42	114,802.24	*4,254.42*
Uncollectible revenue from transportation	14,043.18	10,877.75	75.69	114.60
Express taxes	413,720.38	413,293.52	13,930.36	11,837.07
Operating income (or *loss*)	2,879,867.62	1,280,872.15	100,796.19	*16,206.09*

Comparative statement of revenues and expenses reported by the Pullman Co.

Item.	For the month of August—			For the months of July and August—		
	1916	1915	Increase (or *decrease*).	1916	1915	Increase (or *decrease*).
CAR OPERATIONS.						
Berth revenue	$3,722,908.46	$4,040,474.44	*$317,565.98*	$7,393,342.81	$7,845,509.43	*$452,166.62*
Seat revenue	786,975.03	714,827.14	72,147.89	1,533,322.77	1,367,430.24	165,892.53
Charter of cars	38,962.80	175,536.91	*136,574.11*	96,281.08	518,870.27	*422,589.19*
Miscellaneous revenue	5,052.13	5,543.26	*491.13*	9,459.38	10,882.72	*1,423.34*
Car mileage revenue	70,628.93	90,342.37	*19,713.44*	142,965.00	168,670.46	*25,705.46*
Association revenue—Dr	59,741.48	70,788.37	*11,046.89*	119,835.30	140,126.66	*20,291.36*
Contract revenue—Dr	192,315.98	400,148.02	*207,832.04*	505,600.63	849,912.57	*344,311.94*
Total operating revenues	4,372,469.89	4,555,787.73	*183,317.84*	8,549,935.11	8,921,323.89	*371,388.78*
Maintenance of cars	1,064,197.96	877,262.76	186,935.20	2,754,395.08	1,872,757.91	881,637.17
All other maintenance	24,798.78	15,412.94	9,385.84	48,221.97	51,110.81	*2,888.84*
Conducting car operations	1,186,475.84	1,096,386.24	90,089.60	2,370,591.80	2,183,528.75	187,063.05
General expenses	109,399.00	96,935.60	12,463.40	211,433.76	193,096.85	18,336.91
Total operating expenses	2,384,871.58	2,085,997.54	298,874.04	5,384,642.61	4,300,494.32	1,084,148.29
Net operating revenue	1,987,598.31	2,469,790.19	*482,191.88*	3,165,292.50	4,620,829.57	*1,455,537.07*
AUXILIARY OPERATIONS.						
Total revenues	62,867.02	73,910.97	*11,043.95*	122,725.28	130,564.46	*7,839.18*
Total expenses	59,002.04	69,073.13	*10,071.09*	115,530.53	128,159.03	*12,628.50*
Net revenue	3,864.98	4,837.84	*972.86*	7,194.75	2,405.43	4,789.32
Total net revenue	1,991,463.29	2,474,628.03	*483,164.74*	3,172,487.25	4,623,235.00	*1,450,747.75*
Taxes accrued	151,788.76	118,483.16	33,305.60	308,336.93	242,212.92	66,124.01
Operating income	1,839,674.53	2,356,144.87	*516,470.34*	2,864,150.32	4,381,022.08	*1,516,871.76*

	Miles.
Total railway mileage over which respondent conducted operations on July 31, 1916	123,962
On corresponding date of previous year	120,912

ACCIDENT STATISTICS.

Summary of casualties to persons for the years ended June 30, 1916 and 1915.

Item.	Steam railways.				Electric railways.			
	1916		1915		1916		1915	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Passengers:								
In train accidents	141	3,850	89	4,648	4	708	9	769
Other causes	142	4,529	133	7,462	21	1,208	26	1,696
Total	283	8,379	222	12,110	25	1,916	35	2,465
Employees on duty:								
In train accidents	304	3,352	221	3,371	10	97	9	111
In coupling accidents	123	2,194	90	1,993	4	22	.....	14
Overhead obstructions, etc	59	1,310	45	1,083	1	20	.....	21
Falling from cars, etc	384	12,196	368	10,748	4	106	7	134
Other causes	1,101	23,374	870	20,865	18	214	8	221
Total	1,971	42,426	1,594	38,060	37	459	24	501
Total passengers and employees on duty	2,254	50,805	1,816	50,170	62	2,375	59	2,966
Employees not on duty:								
In train accidents	9	60	5	72	.....	.....	.....	4
In coupling accidents	.....	.....	.....	1	.....	.....	.....	.....
Overhead obstructions, etc	5	13	.....	10	.....	.....	.....	.....
Falling from cars, etc	57	292	45	287	1	1	.....	16
Other causes	230	361	165	470	.....	2	3	5
Total	301	726	215	840	1	3	3	25
Other persons not trespassing:								
In train accidents	11	92	7	110	.....	7	1	25
Other causes	1,467	4,352	1,156	5,280	216	923	190	1,093
Total	1,478	4,444	1,163	5,390	216	930	191	1,118
Trespassers:								
In train accidents	84	119	88	161	1	.....	.....	.....
Other causes	4,763	4,990	4,996	6,287	130	103	103	106
Total	4,847	5,109	5,084	6,448	131	103	103	106
Total accidents involving train operation	8,880	61,084	8,278	62,848	410	3,411	356	4,215
Nontrain accidents[1]	486	119,296	343	99,192	36	1,160	16	932
Grand total	9,366	180,380	8,621	162,040	446	4,571	372	5,147

[1] This item includes certain classes of casualties that for the year 1915 were included in the items "Other causes," under the various classes of persons as shown in the table.

Figures for the year 1915 cover only industrial accidents to employees not involving train operation The corresponding figures for the year 1916 are, for steam railways, 398 employees killed, 116,699 injured, or electric railways, 15 employees killed, 974 injured.

Derailments—Steam railways.

DUE TO DEFECTS OF EQUIPMENT.

Causes.	Year ended June 30, 1916.				Year ended June 30, 1915.			
	Number.	Persons—		Damage to road and equipment and cost of clearing wrecks.	Number.	Persons—		Damage to road and equipment and cost of clearing wrecks.
		Killed.	Injured.			Killed.	Injured.	
Defective wheels:								
Broken or burst wheel	404	6	29	$490,500	335	8	53	$394,569
Broken flange	399	8	44	433,000	346	2	49	311,556
Loose wheel	106	2	15	87,800	100	1	11	69,122
Miscellaneous wheel defects	90	2	17	68,500	86	.....	29	49,467
Broken or defective axle or journals	490	3	50	452,500	367	6	104	362,766
Broken or defective brake rigging	472	4	68	346,900	390	3	54	261,704
Broken or defective draft gear	319	2	33	173,700	280	3	41	173,106
Broken or defective side bearings	182	.....	29	109,300	141	.....	37	108,093
Broken arch bar	319	12	15	373,500	222	6	77	269,817
Rigid trucks	164	.....	21	134,700	177	4	65	92,057
Failure of power-brake apparatus, hose, etc	442	2	39	227,300	353	9	45	175,563
Failure of couplers	215	1	19	109,300	219	3	32	102,750
Miscellaneous	471	5	97	413,200	400	9	169	277,563
Total	4,073	47	476	3,420,200	3,416	54	766	2,648,133

DUE TO DEFECTS OF ROADWAY.

Broken rail	272	7	261	$328,500	272	6	527	$342,342
Spread rail	105	2	111	61,000	90	3	147	55,339
Soft track	349	7	184	187,000	354	3	292	191,456
Bad ties	80	.....	13	41,500	61	3	39	27,384
Sun kink	30	1	25	33,200	32	2	96	29,374
Irregular track	534	6	150	361,500	415	11	231	290,032
Broken or defective switch or frog	233	1	124	125,100	202	9	126	127,798
Miscellaneous	70	4	53	57,000	81	6	82	56,858
Total	1,673	28	921	1,194,800	1,507	43	1,540	1,120,583

Summary of accidents resulting from collisions and derailments for the 10 years ended June 30, 1916.[1]

Year.	Number.	Persons—		Damage to road and equipment and cost of clearing wrecks.
		Killed.	Injured.	
1907	15,458	1,291	16,236	$12,865,702
1908	13,034	728	12,834	10,183,660
1909	9,670	606	9,560	7,480,203
1910	11,779	773	12,579	9,823,958
1911	11,865	785	11,793	9,851,789
1912	13,698	772	15,096	11,527,458
1913	15,526	791	14,565	13,049,214
1914	13,806	605	11,437	10,965,181
1915	10,387	382	7,554	7,800,898
1916	12,674	510	6,914	10,019,100

[1] For the years prior to 1911 the figures for persons killed and injured are restricted to passengers and to employees on duty. Returns for electric railways are included in the figures for the same years.

Derailments due to defects of equipment for the 10 years ended June 30, 1916.[1]

Year.	Number.	Persons— Killed.	Persons— Injured.	Damage to road and equipment and cost of clearing wrecks.	Number.	Persons— Killed.	Persons— Injured.	Damage to road and equipment and cost of clearing wrecks.
	BROKEN OR BURST WHEEL.				BROKEN WHEEL FLANGE.			
1907	242	8	73	$264,692	693	9	107	$675,134
1908	234	.....	41	270,097	582	7	94	614,967
1909	220	.....	15	246,286	518	6	73	497,712
1910	241	4	19	256,074	619	3	88	583,972
1911	235	6	34	281,985	581	11	72	582,360
1912	357	3	27	371,938	627	8	64	605,882
1913	351	5	108	390,689	605	10	104	600,348
1914	360	4	29	455,335	534	8	100	526,247
1915	335	8	53	394,569	346	2	49	311,556
1916	404	6	29	490,500	399	8	44	433,000
Total	2,979	44	428	3,422,165	5,504	72	795	5,431,178
	LOOSE WHEEL.				MISCELLANEOUS WHEEL DEFECTS.			
1907	132	3	95	$127,210	142	8	74	$77,535
1908	98	1	22	54,674	117	1	66	55,266
1909	101	1	56	82,799	74	1	50	37,115
1910	105	1	39	120,418	81	2	67	48,201
1911	103	.....	28	89,073	78	1	43	55,047
1912	124	2	20	97,671	127	2	169	109,413
1913	130	1	19	97,535	137	2	46	74,557
1914	117	1	74	97,739	118	2	65	66,766
1915	100	1	11	69,122	86	.....	29	49,467
1916	106	2	15	87,800	90	2	17	68,500
Total	1,116	13	379	924,041	1,050	21	626	641,867
	BROKEN OR DEFECTIVE AXLE OR JOURNAL.				BROKEN OR DEFECTIVE BRAKE RIGGING.			
1907	425	2	48	$274,498	379	9	151	$335,696
1908	351	4	70	233,222	427	6	225	327,100
1909	289	2	46	214,735	294	3	134	204,946
1910	337	1	41	281,100	363	6	119	251,252
1911	355	9	88	310,782	382	9	131	289,968
1912	410	2	104	302,146	528	4	157	411,294
1913	474	6	61	395,034	578	5	181	393,369
1914	425	2	120	340,185	580	9	162	398,758
1915	367	6	104	362,766	390	3	54	261,704
1916	490	3	50	452,500	472	4	68	346,900
Total	3,923	37	732	3,166,968	4,393	58	1,382	3,220,987
	BROKEN OR DEFECTIVE DRAFT GEAR.				BROKEN OR DEFECTIVE SIDE BEARINGS.			
1907	237	1	55	$134,073	65	1	11	$36,555
1908	174	2	35	80,200	69	.....	22	41,354
1909	105	1	20	46,912	42	2	33	39,779
1910	148	1	17	87,931	55	1	5	41,523
1911	131	2	29	77,572	79	4	39	66,595
1912	177	6	48	110,456	177	1	94	125,785
1913	366	.....	43	229,492	134	1	66	86,312
1914	411	2	57	253,978	143	3	44	110,928
1915	280	3	41	173,106	141	.....	37	108,093
1916	319	2	33	173,700	182	.....	29	109,300
Total	2,318	20	378	1,367,390	1,087	13	380	766,224

[1] For the years prior to 1911 the figures for persons killed and injured are restricted to passengers and to employees on duty. Returns for electric railways are included in the figures for the same years.

Derailments due to defects of equipment for the 10 years ended June 30, 1916—Continued.

Year.	Number.	Persons— Killed.	Persons— Injured.	Damage to road and equipment and cost of clearing wrecks.	Number.	Persons— Killed.	Persons— Injured.	Damage to road and equipment and cost of clearing wrecks.
	BROKEN ARCH BAR.				RIGID TRUCKS.			
1907	109	1	23	$86,638	91	.....	22	$43,283
1908	136	4	47	118,517	76	.....	21	37,452
1909	129	.....	55	117,754	43	.....	20	31,607
1910	144	.....	30	140,810	68	4	24	37,154
1911	119	1	7	136,370	55	1	30	40,315
1912	257	8	130	275,828	184	2	66	124,979
1913	294	7	41	342,251	258	3	60	128,564
1914	276	1	66	278,695	217	.....	38	113,774
1915	222	6	77	269,817	177	4	65	92,057
1916	319	12	15	373,500	164	.....	21	134,700
Total	2,005	40	491	2,140,180	1,333	14	367	783,885
	FAILURE OF POWER-BRAKE APPARATUS, HOSE, ETC.				FAILURE OF COUPLERS.			
1907	122	4	14	$82,056	145	.....	18	$66,728
1908	92	4	19	60,889	103	2	23	47,086
1909	141	3	41	75,472	169	4	18	78,658
1910	182	7	30	101,092	121	.....	14	50,461
1911	168	1	28	78,078	185	.....	27	94,264
1912	216	5	29	107,203	208	2	30	98,892
1913	313	.....	34	138,336	205	2	25	87,876
1914	260	1	25	130,631	233	2	18	116,134
1915	353	9	45	175,563	219	3	32	102,750
1916	442	2	39	227,300	215	1	19	109,300
Total	2,289	36	304	1,176,620	1,803	16	224	852,149
	MISCELLANEOUS DEFECTS.				GRAND TOTAL.			
1907	396	13	235	$285,960	3,178	59	926	$2,490,028
1908	337	6	146	235,370	2,796	37	831	2,176,194
1909	237	6	90	201,871	2,362	29	651	1,875,646
1910	270	10	143	227,364	2,734	40	636	2,227,352
1911	353	19	133	276,665	2,824	64	689	2,379,074
1912	455	23	259	423,546	3,847	68	1,197	3,165,033
1913	521	7	457	456,674	4,366	49	1,245	3,421,037
1914	512	15	276	468,918	4,186	50	1,074	3,358,088
1915	400	9	169	277,563	3,416	54	766	2,648,133
1916	471	5	97	413,200	4,073	47	476	3,420,200
Total	3,952	113	2,005	3,267,131	33,782	497	8,491	27,160,785

Derailments due to defects of roadway for the 10 years ended June 30, 1916.[1]

Year.	Number.	Persons— Killed.	Persons— Injured.	Damage to road and equipment and cost of clearing wrecks.	Number.	Persons— Killed.	Persons— Injured.	Damage to road and equipment and cost of clearing wrecks.
	BROKEN RAIL.				SPREAD RAIL.			
1907	308	12	699	$284,675	206	5	166	$109,607
1908	238	16	433	296,327	200	1	164	138,160
1909	196	5	498	191,842	130	2	94	65,811
1910	243	24	369	293,899	171	7	152	147,597
1911	249	12	463	292,749	153	4	192	102,433
1912	363	52	1,065	511,778	251	6	256	154,235
1913	340	17	827	401,551	231	8	246	125,499
1914	311	24	810	387,053	217	3	147	126,327
1915	272	6	527	342,342	90	3	147	55,339
1916	272	7	261	328,500	105	2	111	61,000
Total	2,792	175	5,952	3,330,716	1,754	41	1,675	1,086,008
	SOFT TRACK.				BAD TIES.			
1907	182	5	216	$173,155	45	.....	16	$16,955
1908	151	.....	167	136,839	42	.....	43	24,347
1909	114	4	77	72,901	36	.....	5	11,495
1910	110	1	250	74,769	31	1	12	18,096
1911	108	1	128	66,192	41	.....	17	18,972
1912	327	13	294	228,079	52	.....	30	20,492
1913	299	5	113	162,579	59	2	110	34,784
1914	356	.....	218	254,265	62	3	113	29,760
1915	354	3	292	191,456	61	3	39	27,384
1916	349	7	184	187,000	80	.....	13	41,500
Total	2,350	39	1,939	1,547,235	509	9	398	243,785
	SUN KINK.				IRREGULAR TRACK.			
1907	18	1	40	$33,664	272	5	230	$253,296
1908	28	1	93	31,783	211	6	189	144,505
1909	14	1	14	28,749	175	3	96	107,282
1910	28	.....	33	16,372	202	3	225	149,295
1911	30	3	62	51,207	179	5	130	122,526
1912	22	2	61	11,214	531	15	743	389,591
1913	31	1	140	47,638	533	14	370	408,390
1914	27	3	21	22,701	512	12	227	378,383
1915	32	2	96	29,374	415	11	231	290,032
1916	30	1	25	33,200	534	6	150	361,500
Total	260	15	585	305,902	3,564	80	2,591	2,604,800
	MISCELLANEOUS DEFECTS.				GRAND TOTAL.			
1907	497	30	616	$383,762	1,528	58	1,983	$1,255,114
1908	545	21	472	314,464	1,415	45	1,561	1,086,425
1909	315	9	376	224,009	980	24	1,160	702,089
1910	326	6	290	211,929	1,111	42	1,331	911,957
1911	465	32	568	353,381	1,225	57	1,560	1,007,460
1912	331	14	317	226,071	1,877	102	2,766	1,541,460
1913	466	23	424	403,488	1,959	70	2,230	1,583,929
1914	403	21	451	317,854	1,888	66	1,987	1,516,343
1915	283	15	208	184,656	1,507	43	1,540	1,120,583
1916	303	5	177	182,100	1,673	28	921	1,194,800
Total	3,934	176	3,899	2,801,714	15,163	535	17,039	11,920,160

[1] For the years prior to 1911 the figures for persons killed and injured are restricted to passengers and to employees on duty. Returns for electric railways are included in the figures for the year 1907.

APPENDIX D.

POINTS DECIDED BY THE COMMISSION IN REPORTED CASES, WITH INDEX OF POINTS DECIDED AND TABLE OF CASES.

POINTS DECIDED IN REPORTED CASES.

Rates on agricultural implements and other commodities. (36 I. C. C., 151.)

4760. Proposed increased rates on various commodities between La Crosse, Wis., and St. Paul, Minneapolis, Duluth, Minn., and other points, found not to have been justified.

New York Mercantile Exchange v. *Baltimore & Ohio Railroad Co.* (36 I. C. C., 156.)

4761. When cases of eggs are received by the carrier at the shipping point and are receipted for by the carrier as in apparent good order (contents and condition of contents of package unknown) and arrive at destination in the same apparent condition, showing no external evidence of damage, tariff rules not according to consignees the right to examine the contents of the cases prior to delivery and requiring of consignees receipt for said cases as in apparent good order (contents and condition of contents of package unknown) are not unjust or unreasonable nor shown of record to be unduly prejudicial to the consignees of eggs in the metropolitan district of New York.

Allowances on anthracite coal. (36 I. C. C., 164.)

4762. The Central Railroad Company of New Jersey proposed by the tariffs under suspension to pay to the Lehigh Coal & Navigation Company certain lateral allowances out of the rates on shipments of anthracite coal from Hauto and Nesquehoning, Pa.; *Held*, That the allowances would effect unlawful discrimination and constitute unlawful rebates. Tariffs ordered canceled.

Diamond Crystal Salt Co. v. *Michigan Central Railroad Co.* (36 I. C. C., 172.)

4763. Through rate of 67.4 cents per 100 pounds on salt in carloads from St. Clair, Mich., to California terminals not found unreasonable nor unjustly discriminatory. Complaint dismissed.

Phoenix Iron & Steel Co. v. *Galveston, Houston & Henderson Railroad Co.* (36 I. C. C., 175.)

4764. Cancellation by carriers of the practice of absorbing unloading charges on scrap iron in carloads for export through Galveston found justified. Complaint requesting restoration of the practice and reparation on past shipments denied.

Ladd & Co. v. *Gould Southwestern Railway Co.* (36 I. C. C., 179.)

4765. Rates on lumber from Furth, Ark., on the Gould Southwestern Railway, 13 miles from Gould, Ark., its junction with the St. Louis, Iron Mountain & Southern Railway, are 2 cents per 100 pounds higher than from Gould to interstate destinations; *Held*, That rates on lumber from Furth are unreasonable and unjustly prejudicial to the extent that they exceed the rates on lumber contemporaneously in effect from Gould. Reparation awarded.

Lumber from Michigan points. (36 I. C. C., 184.)

4766. Proposed increased rates on lumber from Wisconsin points to Michigan points and from Michigan points to points without the state found not to be justified, except to Toledo, Ohio, and points taking the same rates. Respondents required to cancel the schedules under suspension, but permission given to establish to Toledo the rates approved in the report.

Foster Lumber Co. v. *Clatskanie Transportation Co.* (36 I. C. C., 190.)

4767. In view of carriers' adjustment of rates subsequent to the filing of this complaint, and in view of their proffer of additional through routes with joint rates applicable thereto, rates from points in Oregon, Washington, and Idaho to destinations on the Teton Basin branch of the Oregon Short Line Railroad held not unjust or unreasonable. Reparation denied.

American Coal & Coke Co. v. *Michigan Central Railroad Co.* (36 I. C. C., 195.)

4768. On complaint that defendant unjustly discriminates against and unduly prejudices complainant by refusal to extend credit to it with respect to freight

and demurrage charges accrued on carloads of coal held at Windsor, Canada, and Detroit, Mich., while extending credit to competitors under like circumstances; *Held*, That the evidence fails to show that complainant is discriminated against or prejudiced within the meaning of the act.

Switching charges at South Omaha, Nebr. (36 I. C. C., 198.)

4769. Proposed increased switching rates on the terminal railroad operated by the Union Stock Yards Co. in South Omaha, Nebr., with exception of the rate on dead freight to nonproprietary industries, justified.

Carey Manufacturing Co. v. *Grand Trunk Western Railway Co.* (36 I. C. C., 203.)

4770. Upon complaint that rates on asbestos sand in carloads from Robertson, Thetford, and Sherbrooke, Quebec, to Lockland and Rockdale, Ohio, are unreasonable and unjustly discriminatory, *Held:*

Rates in question do not conform to the general adjustment of rates between the Canadian territory of origin and the group in which these destinations are located; the rates on asbestos sand to Rockdale and Lockland are higher than from the same points of origin to Chicago and Milwaukee, while the rates on asbestos fiber from the same points of origin to Rockdale and Lockland are lower than from the same points of origin to Chicago and Milwaukee, the fiber being a lighter loading commodity and much more valuable than the sand. The rates attacked are therefore unjustly discriminatory against complainants.

4771. Following *International Paper Co.* v. *D. & H. Co.*, 33 I. C. C., 270, and cases therein cited, the Commission's jurisdiction in connection with transportation to or from an adjacent foreign country is over that portion of the transportation within the confines of the United States. The Commission can not, therefore, prescribe joint through rates from points in Canada to points in the United States, but it can control the rates which the lines in the United States charge for services rendered within the United States. Joint rates from and to points in Canada are a convenience to the public and the shippers and should be encouraged. It is therefore expected that the defendants will comply with the finding that the rates to Lockland and Rockdale are unjustly discriminatory to the extent that they exceed the rates contemporaneously maintained to Chicago or Milwaukee by proper readjustment of the present joint through rates. If this is not done an order will be entered requiring the defendants that are subject to our jurisdiction to establish in lieu of the present rates joint or local rates from the ports of entry in the United States to Lockland and Rockdale which shall be no higher than those contemporaneously maintained to Chicago or Milwaukee.

Peet Bros. Manufacturing Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (36 I. C. C., 208.)

4772. Rates on soap from Kansas City to Texas points not shown to be unreasonable or unduly discriminatory. Complaint dismissed.

4773. Action on that portion of Fourth Section Application No. 701, filed by F. A. Leland, agent, which seeks authority to continue rates on soap and soap powder from Kansas City, Mo., to Beaumont, Houston, and Galveston, Tex., lower than the rates concurrently applicable on like traffic to intermediate points, reserved.

Soap to Texas points. (36 I. C. C., 215.)

4774. Proposed increase in commodity rates on soap from Kansas City, Mo., St. Louis, Mo., and points east of the Mississippi River to Beaumont, Houston, and Galveston, Tex., not justified, since present discrimination against St. Louis from points beyond is increased thereby without the necessary fourth section relief. Denial of proposed increase is without prejudice to future action by the carriers.

Nebraska State Railway Commission v. *Chicago, Burlington & Quincy Railroad Co.* (36 I. C. C., 219.)

4775. Rates on cattle, hogs, and sheep from stations in Nebraska on the Holdrege-Cheyenne branch line of the Chicago, Burlington & Quincy Railroad Co. to St. Joseph, Mo., not shown to be unreasonable or unduly discriminatory. Complaint dismissed.

Low Moor Iron Co. v. *Chesapeake & Ohio Railway Co.* (36 I. C. C., 222.)

4776. Rates on pig iron prescribed from certain Virginia furnaces to points ated to Baltimore, Philadelphia, New York, and Boston.

Coal Switching Reparation Cases at Chicago. (36 I. C. C., 226.)

Upon presentation of the issue whether or not complainants have been damaged and are entitled to reparation because of the payment of charges on carload shipments of coal, *Held:*

4777. That complainants in *Gilmore & Co.* v. *C. & N. W. Ry. Co.* and in *Hinners Co.* v. *N. & W. Ry. Co.* have not proven that they were damaged by the payment of charges which were found to be unjustly discriminatory. In a discrimination case the measure of damage is not the difference between the two rates, but is a fact that must be proven with the same definiteness as would warrant a judgment in a court of law.

4778. That complainants in *Lill & Co.* v. *C., M. & St. P. Ry. Co.* have been damaged and are entitled to reparation to the extent of 10 cents per ton on certain shipments and 5 cents per ton on others because of charges which were found to be unreasonable. No damage proven on that part of the charges which was found to be unjustly discriminatory.

Atlas Coal & Coke Co. v. *Pennsylvania Railroad Co.* (36 I. C. C., 239.)

4779. Charges collected for the transportation of a carload of coal from Viola Colliery No. 1, Pa., to Calvert yard, Baltimore, Md., reconsigned to Canton Piers, Baltimore, Md., not found to have been unreasonable. Complaint dismissed.

Foster Lumber Co. v. *Gulf, Colorado & Santa Fe Railway Co.* (36 I. C. C., 241.)

4780. Demurrage charges assessed on six carloads of lumber held at Fostoria, Tex., for proper billing instructions not found to have been collected improperly. Complaint dismissed.

Classification of chairs. (36 I. C. C., 243.)

4781. Proposed increased rating on common chairs in carloads in western classification territory, from fourth class, minimum 12,000 pounds, to third class, minimum 10,000 pounds, found not justified.

Fertilizer and fertilizer materials. (36 I. C. C., 247.)

4782. Proposed increased rates on domestic fertilizer and fertilizer materials from New Orleans and other Louisiana points found to have been justified. Orders of suspension vacated.

Railroad Commission of Nevada v. *Southern Pacific Co.* (36 I. C. C., 250.)

4783. Rules fixing minimum transportation charges payable by occupants of Pullman drawing-rooms and compartments at two fares for drawing-rooms and one and one-half fares for compartments found reasonable. Complaint dismissed.

Maley & Wertz v. *Louisville & Nashville Railroad Co.* (36 I. C. C., 253.)

4784. Charges collected for the transportation of two carloads of logs from New Empire, Ky., to Evansville, Ind., found to have been unreasonable. Reparation awarded.

Samuel v. *Delaware, Lackawanna & Western Railroad Co.* (36 I. C. C., 255.)

4785. Claim for reparation based on the refusal of the Delaware, Lackawanna & Western Railroad to abide by an alleged agreement to permit a ship to dock at its piers at Hoboken, N. J., to load a number of carload shipments of scrap car wheels shipped from Lucknow, Pa., for export, denied.

4786. The Commission is not empowered to enforce private contracts, either specifically or by awards of damages for their breach.

Overfelt v. *Texas & Pacific Railway Co.* (36 I. C. C., 257.)

4787. Charges collected on a carload of bananas forwarded from New Orleans, La., to Wichita Falls, Tex., and stopped in transit at Bowie, Tex., to partly unload, found to have been unreasonable. Reparation awarded.

Consumers Co. v. *Chicago & North Western Railway Co.* (36 I. C. C., 259.)

Upon complaint of the collection by defendants of unreasonable and unjustly discriminatory switching charges on ice in the Chicago district; *Held:*

4788. As no attack is made upon the total rates from shipping points to final-delivery points or upon the line-haul rates to Chicago and the terminal switching carriers are not made parties defendant, the question of the reasonableness of the rates can not be considered.

4789. Defendants are not shown to have been guilty of unjust discrimination. Complaint dismissed.

Himmelberger-Harrison Lumber Co. v. *St. Louis & San Francisco Railroad Co.* (36 I. C. C., 262.)

4790. Proportional rate of 7 cents per 100 pounds charged for the transportation of lumber and lumber products in carloads from Morehouse, Mo., to Thebes, Ill., destined to points in central freight association, trunk line, and other territories found unreasonable to the extent that it exceeded 5.5 cents per 100 pounds, prescribed as a reasonable maximum proportional rate for the future.

Crouch Grain Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (36 I. C. C., 265.)

4791. Rule in Southwestern Lines tariffs, providing for deductions in the adjustment of claims for loss of grain in transit of certain percentages of loading weights as representing natural shrinkage, not found unreasonable. Complaint dismissed.

Merchants Exchange of St. Louis v. *Chicago & Alton Railroad Co.* (36 I. C. C., 268.)

4792. Defendant's proportional rates on wheat from certain interior Missouri points on its line, to Chicago, Ill., found unduly preferential of Chicago and unduly prejudicial to St. Louis and East St. Louis.

Rutter & Co. v. *Chicago & North Western Railway Co.* (36 I. C. C., 272.)

Upon complaint that defendants have been and are assessing unlawful, unreasonable, and discriminatory charges on carload shipments of coal from eastern mines to complainant's yard at Evanston, Ill.; *Held:*

4793. In the absence of joint rates or a specific manner of constructing through rates the lowest combinations via the routes of movement are the lawful rates.

4794. The lawful through rates from eastern mines to Evanston were and are the rates to Greenwood street station, plus the local distance rate of the Chicago & North Western to Evanston and a reconsigning charge under the conditions named in the tariff, except that where rates to Greenwood street station are limited by tariff to shipments unloaded there the combination is made on Chicago instead of on Greenwood street station.

4795. The allegation of unjust discrimination is not sustained by the record.

4796. The traffic here involved is through traffic and the reasonableness of the rates applicable thereto must be considered from the standpoint of the through rates in their entirety. So considered, the evidence does not show that they are unreasonable.

4797. Defendants directed to refund all overcharges to complainant, with interest.

Memphis Freight Bureau v. *Southern Railway Co.* (36 I. C. C., 281.)

4798. Charges collected for the transportation of certain less-than-carload shipments of plate glass from Memphis, Tenn., to Meridian, Miss., and Birmingham and Montgomery, Ala., not found to have been in excess of those prescribed in defendants' published tariffs.

4799. Following *Minimum Charges on Bulky Articles*, 33 I. C. C., 378, and Docket 6014, *Condie-Neale Glass Co.* v. *M. & O. R. R. Co.*, certain provisions of defendants' classification rule applicable to oversize plate glass found to be unreasonable.

Krauss Bros. Lumber Co. v. *Nashville, Chattanooga & St. Louis Railway.* (36 I. C. C., 285.)

4800. Shipments of dressed yellow pine lumber from Memphis, Tenn., to Somerville and Whiteville, Tenn., found to have been parts of interstate movements originating at points in Florida, Mississippi, Louisiana, and Arkansas.

4801. Rate of 8½ cents per 100 pounds charged for the transportation of interstate shipments of dressed yellow pine lumber in carloads from Memphis to Somerville and Whiteville not shown to have been unreasonable or unjustly discriminatory.

New Jersey Zinc Co. v. *Central Railroad Co. of N. J.* (36 I. C. C., 289.)

4802. The assessment of demurrage upon carload shipments of zinc ore forwarded to Jersey City, N. J., for export, but not exported on account of war conditions abroad, not found to have been unreasonable. Complaint dismissed.

Amory & Co. v. *Southern Pacific Co.* (36 I. C. C., 291.)

4803. By an amendment filed more than two years after a shipment was delivered the consignor was made a party complainant to a petition for reparation

filed by the consignee within two years after delivery; *Held*, That so far as the consignor is concerned the claim is barred.

Kentucky Distilleries & Warehouse Co. v. *Louisville & Nashville Railroad Co.* (36 I. C. C., 293.)

4804. Present rates of the Louisville & Nashville Railroad Co. on "distillers' supplies," consisting of corn, rye, malt, empty barrels, and glass bottles, from Louisville, Ky., and Cincinnati, Ohio, to Kellers, Silver Creek, Lair, Athertonville, New Hope, Coon Hollow, and Withrow, Ky., not shown to be reasonable.

Reincrt v. *Pullman Co.* (36 I. C. C., 304.)

4805. Complaint alleging unlawful discrimination by reason of defendant's failure to redeem three unused tickets for accommodations on its sleeping cars dismissed for want of sufficient evidence.

Bergman v. *Illinois Central Railroad Co.* (36 I. C. C., 306.)

4806. Upon complaint alleging that complainant requested of the ticket agent at St. Louis, Mo., two round-trip homeseekers' tickets to Goliad, Tex., and erroneously was furnish two straight one-way tickets from St. Louis to Goliad, that the mistake was not discovered until after complainant had boarded the train and that one-way tickets were purchased at Goliad for the return transportation: *Held*, That complainant failed to exercise reasonable diligence, and that as lawful fares were collected which are not shown to have been unreasonable, the complaint must be dismissed.

Providence Fruit & Produce Exchange v. *Maine Central Railroad Co.* (36 I. C. C., 307.)

4807. Defendants' detention charges, applicable during winter months on cars provided with artificial heating apparatus, not found to be unreasonable or unjustly discriminatory. Complaint dismissed.

Peppard Seed Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (36 I. C. C., 311.)

4808. Increase in proportional rates for the transportation of sorghum seed and cane seed in carloads from Kansas City, Mo., to destinations in Texas not found to have been justified. Rates not in excess of rates formerly in effect prescribed for the future.

Obermeyer & Liebmann v. *New York Central Railroad Co.* (36 I. C. C., 315.)

4809. Complaint challenging demurrage and track storage charges assessed on three carloads of grits at the Brooklyn eastern district terminal, in New York, as unreasonable and unjustly discriminatory, dismissed.

Class and commodity rates. (36 I. C. C., 317.)

4810. Application of the Southern Railway Co. for authority to continue to charge class and commodity rates from Cincinnati, Ohio, to Alexandria, Va., in connection with the Cincinnati, New Orleans & Texas Pacific Railway Co. via Harriman Junction, Tenn., lower than rates concurrently applicable on like traffic to intermediate points on the line of the Southern Railway between Alexandria and Orange, Va., granted.

4811. Authority to continue to charge class and commodity rates from Louisville, Ky., and Cincinnati, Ohio, to Alexandria, Va., in connection with the Chesapeake & Ohio Railway via Orange, Va., lower than rates concurrently applicable on like traffic to intermediate points on the line of the Southern Railway between Alexandria and Orange, Va., denied.

Belknap Glass Co. v. *Great Northern Railway Co.* (36 I. C. C., 322.)

4812. Rate of $1.50 per 100 pounds found to have been correctly applied on shipments of plate glass from James City, Pa., to Seattle, Wash., and not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Kenefick-Quigley-Russell Construction Co. v. *Southern Railway Co.* (36 I. C. C., 324.)

4813. Complaint alleging that the rate charged for the transportation of two carloads of steam-shovel parts from Lynchburg, Va., to Barr, Colo., was unreasonable, held barred by the statute of limitations.

Through rates from Buffalo-Pittsburgh and Central Freight Association territories. (36 I. C. C., 325.)

4814. The rates applied on through shipments from points in central freight association and Buffalo-Pittsburgh territories to points south of the Ohio and east of the Mississippi rivers exceed in some instances the aggregates of the intermediate rates, in contravention of the provisions of the fourth section of the act; *Held*, That carriers have not justified the continuance of such rates and fourth section relief denied.

Oklahoma Traffic Asso. v. *Abilene & Southern Railway Co.* (36 I. C. C., 329.)

4815. Proposed cancellation of application of rates on lumber to sash, doors and blinds, in carloads, from Oklahoma City and Okmulgee and other points in Oklahoma, and from Shreveport, and other points in Louisiana, to points in Texas, and proposed carload rates on sash, doors, and blinds from Oklahoma City and other points in Oklahoma to certain points in Texas not justified.

4816. Present rates on sash, doors, and blinds and other wooden building materials rated with sash, doors, and blinds, in carloads, from Oklahoma City and Okmulgee to points in Texas unreasonable. Reasonable rates prescribed for the future.

4817. Maintenance of narrower descriptions of building materials, higher minimum carload weights and less extensive schemes of joint rates from Oklahoma City and Okmulgee, Okla., to points in Texas than from Kansas City and St. Louis, Mo., Waco, Tex., and other competing points, unjustly discriminatory.

4818. Present relationship between rates on wooden building materials, in carloads, from Oklahoma City and Okmulgee, Okla., to Texas, and from Texas producing points to the same points unjustly discriminatory.

4819. Fourth section relief denied.

Excelsior and Flax Tow Cases. (36 I. C. C., 349.)

Upon further inquiry and in consideration of new and additional evidence, *Held:*

4820. That certain proposed increased rates on excelsior and flax tow from Minneapolis, St. Paul, and Minnesota Transfer, Minn., and from Dubuque, Iowa, on excelsior, to the Missouri River cities have been shown to be reasonable and nondiscriminatory, and are approved.

4821. The evidence is insufficient to justify the proposed rate to Des Moines, Iowa.

Beekman Lumber Co. v. *Tremont & Gulf Railway Co.* (36 I. C. C., 368.)

4822. Upon complaint that the Southern Railway was negligent in not transmitting reconsigning orders to connecting carriers in order that complainant might take advantage of more favorable rates than were charged; *Held*, That the allegations of the complaint have not been sustained and complaint dismissed.

In the matter of the application of certain railroad companies for a further extension of time. (36 I. C. C., 370.)

4823. Upon application of certain railroad companies, period of time granted by paragraphs (*b*), (*c*), (*c*), and (*f*) of the order of the Commission of March 13, 1911, within which common carriers shall make their freight cars conform to the standards of equipment prescribed by the Commission in its order of March 13, 1911, made pursuant to the provisions of section 3 of an act to supplement the safety appliance acts approved April 14, 1910, further extended for a period of 12 months from July 1, 1916.

Gray Lumber Co. v. *Alabama, Tennessee & Northern Railway.* (36 I. C. C., 376.)

4824. Rate of 20½ cents per 100 pounds for transportation of lumber in carloads from Ward, Ala., to Memphis, Tenn., found to have been unreasonable to the extent that it exceeded 14½ cents. Reparation awarded.

Glucose from Chicago. (36 I. C. C., 379.)

4825. Proposed increased carload rates on glucose from Chicago, Ill., to points in Pennsylvania and trunk line territory and for export through Atlantic ports justified.

Swift & Co. v. *Southern Railway Co.* (36 I. C. C., 386.)

4826. Tariffs naming joint through rates on cottonseed oil did not, at time shipments moved, provide that shipments originating at points on the Central

of Georgia Railway and destined to points in northern states might be refined in transit at points on other lines. Therefore, the aggregates of intermediate rates were legally applicable to shipments so treated; *Held*, However, that the aggregates of the intermediate rates, as applied to through shipments, were unreasonable to the extent that they exceeded the joint through rates contemporaneously in effect and subsequently made applicable in connection with refining in transit at Charlotte, N. C. Defendant authorized to waive collection of undercharges.

Import and domestic rates on brewers' rice. (36 I. C. C., 389.)

Because of informal complaints filed with the Commission, to determine the propriety of the import rates on brewers' rice from Gulf ports to various destinations which were lower than the domestic rates on brewers' rice from and to the same points, a hearing was had under a general order of the Commission which provides for an investigation into the rates, practices, rules, and regulations governing the transportation of imported property and the relationship between the rates for such transportation and for transportation of similar property originating in the United States; *Held:*

4827. That since the import rates on brewers' rice from Gulf ports are not made with relation to the domestic rates, but are controlled by and made differentials under the import rates on brewers' rice from north Atlantic ports, the circumstances and conditions surrounding those rates are substantially dissimilar from those surrounding the domestic rates, and that the allegation of unjust discrimination, except where the differential in import rates is greater than the recognized differentials between the Gulf ports and the north Atlantic ports, has not been proven.

4828. That the relationship between the import and domestic rates on brewers' rice from Gulf ports to Pueblo, Colo., Salt Lake City, Utah, and other points at which similar rate relationships obtain, is unjustly discriminatory, and that where defendants maintain from the Gulf ports import rates on brewers' rice that are more than 6 cents lower than the import rates contemporaneously in effect from New York to the same points, it is unjustly discriminatory to charge higher rates on domestic than on import shipments.

Rates on bituminous coal. (36 I. C. C., 401.)

4829. Carriers authorized to continue rates on coal from mines in Illinois, Kentucky, Tennessee, and Alabama to Memphis, Tenn., Natchez, Miss., Baton Rouge, Bayou Sara, Plantation group, Kenner, and New Orleans, La., and group, Gulport, Miss., and Mobile, Ala., lower than rates to intermediate points.

4830. Carriers authorized to continue rates on coal from mines in Illinois and Kentucky to Greenville and Vicksburg, Miss., lower than rates to intermediate points.

4831. Authority to continue rates on coal via indirect routes from mines in Illinois, Kentucky, Tennessee, and Alabama to junction and common points in Mississippi Valley territory lower than rates to intermediate points granted.

4832. Authority to continue rates on coal from mines in Illinois and Kentucky to Bemis, Gibbs, Humboldt, Jackson, McKenzie, Milan, Paris, Union City, Martin, and Rives, Tenn., lower than rates to intermediate points denied.

4833. Authority to continue rates via direct lines from Alabama mines to Aberdeen, Ackerman, Columbus, Ellisville, Enterprise, Hattiesburg, Holly Springs, Jackson, Laurel, Newton, Meridian, Starkville, Vicksburg, and West Point, Miss., and Grand Junction and Middleton, Tenn., lower than rates to intermediate points denied.

4834. Reasonable maximum rates on bituminous coal from mines in Illinois, Kentucky, and Alabama to Dyersburg, Tenn., Grenada, Oxford, and Kosciusko, Miss., and other points prescribed.

In re conditions affecting crude petroleum. (36 I. C. C., 429.)

4835. Facts relating to (1) the control of pipe-line companies, and (2) the discontinuance of the running and purchase of petroleum in 1914 and the reasons therefor.

Lettuce from Texas points. (36 I. C. C., 511.)

4836. Proposed increased arbitraries on lettuce in carloads from East St. Louis to points in central freight association territory, on traffic originating in Texas, found not to be justified and directed to be canceled.

City Ice & Supply Co. v. *Chicago & North Western Railway Co.* (36 I. C. C., 514.)

4837. Switching charges at Chicago, Ill., on carload shipments of ice from Salem and Antioch, Wis., to Chicago, not found unjustly discriminatory. Reparation denied and complaint dismissed.

Marx & Sons v. *Illinois Central Railroad Co.* (36 I. C. C., 519.)

4838. Rates applied on three carload shipments of "scrap iron" from McComb, Miss., to New Orleans, La., found not to have been improperly collected. Complaint dismissed.

4839. Exceptions to classifications must be interpreted in the light of the classification and the specifications and definitions contained therein.

Merrill & Bro. v. *Illinois Central Railroad Co.* (36 I. C. C., 523.)

4840. Rates charged for the transportation of secondhand sawmill machinery in carloads from Tickfaw, La., to Lake, Miss., not found unreasonable or unjustly discriminatory. Complaint dismissed.

Eastern Oregon Lumber Producers' Asso. v. *Oregon-Washington Railroad & Navigation Co.* (36 I. C. C., 526.)

4841. Combination rates on lumber, and forest products taking the same rate, from Oregon producing points on the line of Oregon-Washington Railroad & Navigation Co. to points on the Chicago, Burlington & Quincy Railroad south and east of Hemingford, Nebr., Guernsey and Cheyenne, Wyo., and Brush, Colo., to and including Missouri River points, found to be unreasonable and unjustly discriminatory. Reasonable and nondiscriminatory joint rates prescribed for the future.

Elmore-Benjamin Coal Co. v. *Chesapeake & Ohio Railway Co.* (36 I. C. C., 528.)

4842. Through rates on coal in carloads from the Kanawha and New River, W. Va., fields on lines of the Chesapeake & Ohio Railway Co. to Milwukee, Wis., not found to be unreasonable. Request for joint rates denied. Complaint dismissed.

Alexandria Paper Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (36 I. C. C., 532.)

4843. Complaints against the carload rates on news print paper from Alexandria, Ind., to various points west of the Mississippi River, dismissed.

Fall River Bleachery v. *Atlantic Coast Line Railroad Co.* (36 I. C. C., 535.)

4844. Rail-and-water rates on cotton piece goods from Carolina territory to Fall River, Mass., not found unreasonable or unjustly discriminatory. Complaint dismissed.

Des Moines commodity rates. (36 I. C. C., 538.)

4845. Proposed commodity rates to Des Moines, Iowa, from Chicago, Ill., based upon the rates from Chicago to the Mississippi River plus a mileage prorate of the rates from the Mississippi River to the Missouri River found to be reasonable for the future.

Morris & Co. v. *Union Pacific Railroad Co.* (36 I. C. C., 540.)

4846. Carload rate of 15 cents per 100 pounds on bulk salt from Kansas producing points to Oklahoma City, Okla., found to be unjust and unreasonable to the extent that it exceeds 12 cents per 100 pounds. Reparation awarded.

Prest-O-Lite Co. v. *Boston & Albany Railroad Co.* (36 I. C. C., 545.)

4847. Official classification rating of third class on empty coppered or nickeled acetylene gas cylinders in less-than-carload quantities found to be unjust, unreasonable, and unjustly discrimatory, and a rating of fourth class prescribed for the future. Reparation awarded.

Coal from Illinois mines. (36 I. C. C., 549.)

4848. Following *1915 Western Rate Advance Case*, 35 I. C. C., 497, 603–611, proposed increased rates on bituminous coal from Illinois mines to west bank Mississippi River crossings and other points are found justified.

Pig iron from Virginia furnaces. (36 I. C. C., 552.)

4849. Proposed increased carload rates on pig iron from Virginia furnaces to certain points in Pennsylvania, New York, and Maryland not justified.

4850. Proposed increased rates to Pittsburgh and Pittsburgh rate points justified.
4851. Proposed increased rates to West Virginia points justified.
4852. Proposed increased rail-and-water rate to Boston not justified.

Rebates to the United States Steel Corporation. (36 I. C. C., 557.)

4853. Resolution of the Senate is sufficiently complied with by reference to certain other investigations in connection with the statement herein.

Ownership, management, and control of the Little Kanawha Railroad Co. (36 I. C. C., 560.)

4854. It does not appear that the Little Kanawha Railroad is now being held by a combination of interstate railroads for the purpose of tying up the development of the Little Kanawha Valley.

Florence Wagon Works v. *Missouri, Oklahoma & Gulf Railway Co.* (36 I. C. C., 650.)

4855. Through rate charged for the transportation of a carload of wagon felloes in the rough from Achille, Okla., to Florence, Ala., found unreasonable to the extent that the rate charged for the portion of the haul from Memphis, Tenn., to Florence exceeded the rate concurrently in effect on lumber. Reparation awarded.

King Powder Co. v. *Pennsylvania Railroad Co.* (36 I. C. C., 653.)

4856. Increased import rates on nitrate of soda in carloads from Baltimore, Md., and Philadelphia, Pa., to Carrel street station, Cincinnati, and Kings Mills and Morrow, Ohio, found not to have been justified. Reparation denied.

Jewett, Bigelow & Brooks v. *Cincinnati, Hamilton & Dayton Railway Co.* (36 I. C. C., 655.)

4857. Demurrage charges on certain shipments of coal at Toledo, Ohio, found to have been assessed lawfully.
4858. Defendant's tariffs not shown to have been unreasonable in not containing a provision permitting the waiver of demurrage charges accruing because of flood conditions. Complaint dismissed.

Maley & Wertz v. *Louisville & Nashville Railroad Co.* (36 I. C. C., 657.)

4859. Defendant's rules and regulations applicable to transit on lumber at points on its system shown not to be unreasonable or unduly discriminatory or prejudicial. Complaint dismissed.

Grain to the Southwest. (36 I. C. C., 660.)

4860. Proposed increased rates on grain from points on the Great Northern Railway in Minnesota and South Dakota to points on the Kansas City Southern Railway in Kansas, Missouri, and Oklahoma and points on the Union Pacific Railroad in Kansas found to have been justified. Order of suspension vacated.

Globe Grain & Milling Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (36 I. C. C., 662.)

4861. The denial at California milling points and the granting at Ogden, Utah; Albuquerque and Belen, N. Mex.; El Paso, Tex.; and points east thereof, of transit arrangements on grain shipped from Kansas, Nebraska, Colorado, Oklahoma, and Texas, the products of which are distributed in California, found not to be unduly prejudicial to California millers. Complaint dismissed.

Lookout Refining Co. v. *Louisville & Nashville Railroad Co.* (36 I. C. C., 667.)

4862. Rate charged for the transportation of certain shipments of cottonseed stearine in bags from Cincinnati, Ohio, to Chattanooga, Tenn., found to have been unreasonable. Reparation awarded.

Union Lumber Co. v. *Gulf, Colorado & Santa Fe Railway Co.* (36 I. C. C., 670.)

4863. Rate charged for the transportation of a carload of lumber from Milvid, Tex., to Humansville, Mo., not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Houston Packing Co. v. *Houston East & West Texas Railway Co.* (36 I. C. C., 672.)

On complaint that the rates on packing-house products and fresh meats from Houston, Tex., are higher than from Fort Worth, Tex.; *Held:*

4864. That the present rates from Houston to Salt Lake City, Utah, Kansas City, Mo., Omaha, Nebr., Chicago, Ill., and Milwaukee, Wis., are unjustly discriminatory to the extent that they exceed rates made on certain differentials over the rates from Fort Worth.

4865. That the present rates from Houston to Little Rock, Ark., on fresh meats, and to Oklahoma City, Okla., on packing-house products, are unjustly discriminatory to the extent that they exceed the mileage scale basis of rates, approved in *Investigation of alleged unreasonable rates on meats*, 22 I. C. C., 160; 23 I. C. C., 656, contemporaneously applied from Fort Worth.

4866. That the present relationship, as between Houston and Fort Worth, on packing-house products to Denver, Colo., Little Rock, Hope, Fort Smith, and Marianna, Ark., and on fresh meats to Denver and Marianna is not shown to be unreasonable or discriminatory.

Eastern Live-Stock Case. (36 I. C. C., 675.)

4867. Proposed increased rates for transportation of live stock, except horses and mules, in central freight association territory, found justified to the extent found reasonable in this report.

4868. Certain proposed increased carload minima applicable to live stock, when transported between points in central freight association territory, found justified; others not justified.

4869. Proposed increased rates for the transportation of cattle from points in central freight association territory to points in trunk line and New England freight association territories, found justified.

4870. Proposed increased rates for the transportation of hogs and of sheep or goats in single-deck and in double-deck cars from points in central freight association territory to points in trunk line and New England freight association territories, found justified.

4871. Certain proposed increased carload minima applicable to live stock, when transported from points in central freight association territory to points in trunk line and New England freight association territories, found justified; others not justified.

4872. Increased rates for the transportation of packing-house products, packed, and packing-house products, loose, from points in central freight association territory to points in trunk line and New England freight association territories which would exceed the classification rates on these commodities, found not justified.

4873. Proposed increased rates for the transportation of fresh meat from points in central freight association territory to points in trunk line and New England freight association territories, found justified.

4874. Proposed increased carload minima applicable to fresh meat and packing-house products, loose, when transported from points in central freight association territory to points in trunk line and New England freight association territories, found justified.

4875. Proposed increased rates for the transportation of live stock between points in trunk line territory east of the western termini of the trunk lines, found not justified.

4876. Proposed increased rates for the transportation of packing-house products between points in trunk line territory east of the western termini of the trunk lines, found not justified.

4877. Proposed increased carload minima applicable to live stock and packing-house products, when transported between points in trunk line territory east of the western termini of the trunk lines, found not justified.

Western passenger fares. (37 I. C. C., 1.)

Reasonableness and propriety of proposed increased passenger fares considered and upon the whole record, *Held:*

4878. In the states of Illinois; Wisconsin; Michigan, upper peninsula; Minnesota; Iowa; Nebraska; Missouri, north of the Missouri River; and in Kansas on and north of the main line of the Union Pacific Railroad from Kansas City to the Colorado state line, proposed increased fares not justified, but a basis for interstate fares of 2.4 cents per mile is justified.

4879. In the state of Missouri south of the Missouri River and in the state of Kansas south of the main line of the Union Pacific Railroad proposed increased fares not justified, but a basis for interstate fares of 2.6 cents per mile is justified.

4880. Proposed increased fares from points in territory in which these fares are authorized to points on the main lines of these respondent carriers in Cali-

fornia, Utah, Nevada, Colorado, Wyoming, Arizona, New Mexico, Arkansas, Oklahoma, and Texas are not justified in those instances where such proposed increases result in higher fares than would be obtained by using for the construction of such fares the bases herein authorized in the states of Michigan, Illinois, Wisconsin, Kansas, Minnesota, Iowa, Nebraska, and Missouri, and a basis of 2½ cents per mile in the states of North and South Dakota, and a basis of 3 cents per mile in the states south and west thereof.

4881. Proposed increased charges for mileage tickets in territory north of the Missouri River in Missouri and on and north of the main line of the Union Pacific Railroad in Kansas to 2½ cents per mile, and in territory south of the Missouri River in Missouri and the main line of the Union Pacific Railroad in Kansas to 2½ cents per mile are justified.

4882. Proposed increased fares from points in Michigan, upper peninsula; Illinois; Iowa; Minnesota; Wisconsin; Nebraska; Missouri; and Kansas, to points in states east thereof, which result from the construction of such fares by the use of the bases herein found reasonable and the use of the lawfully published and filed fares in eastern territory are justified.

Bergman & Co. v. *Chicago & North Western Railway Co.* (37 I. C. C., 71.)

4883. Defendants' rates for the transportation of green salted hides, in carloads, from St. Paul and Minneapolis, Minn., to Chicago, Ill., and Chicago rate points found to be unreasonable to the extent that they exceed the rates contemporaneously in effect from the same points to the same destinations on packing-house products in carloads.

Chicago Lumber & Coal Co. v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (37 I. C. C., 73.)

4884. Charges collected by defendants for the transportation of lumber in carloads from Bayou Sale and Baldwin, La., to milling points and reshipped to various interstate destinations found to have been unlawful. Reparation awarded.

United States Cast Iron Pipe & Foundry Co. v. *Southern Railway Co.* (37 I. C. C., 75.)

4885. Rate charged by defendants for the transportation of cast-iron pipe and fittings in carloads from Anniston and Bessemer, Ala., to El Segundo, Cal., found unjustly discriminatory. Reparation denied because the unlawful prejudice is not shown to have resulted in damage to complainant.

Lake line applications under Panama Canal act. (37 I. C. C., 77.)

4886. The petition above described does not request a rehearing on the evidence but merely a reconsideration of the question whether a competitive relationship exists between the Lehigh Valley Railroad Co. and the Lehigh Valley Transportation Co. such as is contemplated by section 5 of the act as amended; *Held*, No reason appears tending to show that the previous findings of the Commission that the Lehigh Valley Railroad Co. does or may compete with the Lehigh Valley Transportation Co. within the meaning of section 5 as amended was in error. Petition will be dismissed.

Boardman Co. v. *Southern Pacific Co.* (37 I. C. C., 81.)

4887. Upon complaints asking reparation on account of switching charges collected by defendants on interstate carload shipments received or delivered prior to August 12, 1914, at complainants' plants situated on private or industrial sidetracks within the switching limits of Los Angeles, San Francisco, San Diego, Sacramento, San Jose, Crockett, and Alvarado, Cal., and Reno, Nev.; *Held*, That reparation should be denied. Complaints dismissed.

Peaches from Missouri points. (37 I. C. C., 89.)

4888. Proposed increased rates on peaches in carloads from the Koshkonong-Brandsville district in southern Missouri and northern Arkansas to eastern destinations held justified.

Minneapolis Thrashing Machine Co. v. *Minneapolis & St. Louis Railroad Co.* (37 I. C. C., 92.)

Complainant manufactures agricultural implements at Hopkins, Minn., and ships them to points in central freight association territory and to Canada. On complaints involving the reasonableness of the rules with respect to mini-

mum carload weights on shipments of separators and other implements to points in Ohio and to Winnipeg, Manitoba; *Held:*

4889. That the through charges collected by defendants on shipments of agricultural implements from Hopkins, Minn., to points in central freight association territory were unlawful in that they exceeded the aggregates of the intermediate charges based on Peoria, Ill. Reparation awarded.

4890. That the charges collected on a shipment from Minneapolis, Minn., to Winnipeg, Manitoba, which moved in July, 1913, were unreasonable to the extent that they exceeded the charges that would have accrued if the "two for one" rule had been applicable. Reparation awarded.

Criswell v. *Wichita Falls & Northwestern Railway Co.* (37 I. C. C., 97.)

4891. Complainant desired to ship cattle from Gate, Okla., a station on the Wichita Falls & Northwestern Railway, to Kansas City, Mo. Through the negligence of that carrier's agent at Gate in permitting previous shipments of infected cattle made by another shipper to be handled through the stock pens at Gate, thereby making it unsafe for complainant to ship through those pens, complainant drove his cattle to Laverne, Okla., for shipment. Laverne also is a station on the Wichita Falls & Northwestern Railway, but a higher rate applied from Laverne than from Gate. Complaint dismissed.

California Portland Cement Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (37 I. C. C., 99.)

4892. Rates charged by defendants for the transportation of wire bag ties from Waukegan and Chicago, Ill., and Toledo, Ohio, to Colton, Cal., not found to have been unreasonable. Complaint dismissed.

Wattam v. *Northern Pacific Railway Co.* (37 I. C. C., 101.)

4893. Refrigeration charges on a carload of bananas shipped from Galveston, Tex., to Livingston, Mont., not found to have been unreasonable. Complaint dismissed.

New York-Jersey City ferry rates. (37 I. C. C., 103.)

4894. Proposed increased rates for the ferriage of vehicles and animals between the Erie Railroad's terminals at Jersey City, N. J., and Twenty-third street and Chambers street, New York City, not justified. Tariff ordered canceled.

1915 Western Rate Advance Case—Part II. (37 I. C. C., 114.)

4895. Proposed increased carload rates on agricultural implements justified except to points in Louisiana, and to those points not justified.

4896. Proposed increased carload rates on canned goods in western trunk line territory justified.

4897. Proposed increased carload rates on flue lining in western trunk line territory justified.

4898. Proposed increased carload rates on eggs from points in Kansas and other points to southwestern points not justified.

4899. Proposed increased carload rates on cider and vinegar from interstate points to Kansas and Missouri not justified.

4900. Proposed increased carload rates on bauxite ore to certain points justified and to certain other points not justified.

4901. Proposed increased carload rates on boots and shoes, leather, and boot and shoe findings between Missouri manufacturing points and interstate points justified; proposed less-than-carload rates between same points and increases in carload minima not justified.

4902. Proposed increased rates on dried and evaporated fruits in portions of western trunk line territory justified.

4903. Proposed readjustment of rates to Louisiana not justified.

4904. Proposed increased carload rates on furniture from Kansas City and other points to Oklahoma groups 6, 7, and 8 justified; proposed increase to Oklahoma group 9 not justified.

4905. Proposed increased less-than-carload rates to and from manufacturing points in Missouri on various commodities found unlawful when made to vary with quantity shipped; other proposed increases justified.

4906. Proposed charges for switching "run-by and setback" grain justified.

4907. Proposed transit charges on fruits and vegetables in western trunk line and trans-Missouri territory justified.

4908. Proposed increases upon miscellaneous items justified; others not justified.

Official classification ratings. (37 I. C. C., 166.)

Upon consideration of objections to proposed changes in the classification ratings on certain commodities named in supplement No. 9 to official classification No. 42, and certain other tariffs, and of the facts, circumstances, and conditions shown of record in relation thereto; *Held:*

4909. Proposed higher ratings on beer, beer tonic, ale, and porter in carloads and less than carloads; on nonalcoholic beverages in carloads and less than carloads; on tobacco cuttings or scraps and tobacco siftings or sweepings in less than carloads; on plug or twist tobacco in carloads and less than carloads; on grain and grain products in less than carloads; on animal, poultry, and pigeon feed, not medicated, in less than carloads; and on rags, waste paper, and other paper makers' fibers in less than carloads, not justified.

4910. Proposed higher ratings on beer barrels and certain other cooperage, both new and old, in carloads and less than carloads; and on old bottles in carloads and less than carloads and old bottle carriers in carloads, justified.

4911. Proposed establishment of carload and less-than-carload ratings on leaf tobacco in lieu of any-quantity rating not justified.

4912. Proposed increased estimated weights of flour in barrels and half barrels justified.

Export Grain Case. (37 I. C. C., 190.)

4913. Proposed increased rates on grain, grain products, and by-products from central freight association territory and certain points in Wisconsin, Iowa, Missouri, and Kentucky to Atlantic ports for export found not justified, and schedules ordered canceled.

Coal to Kentucky points. (37 I. C. C., 194.)

4914. Proposed cancellation of joint rates on coal from points in West Virginia to points in Kentucky not justified.

Lumber to Wisconsin points. (37 I. C. C., 198.)

4915. Proposed increased rates on lumber in carloads from points in Missouri and Arkansas to Milwaukee, Wis., and points immediately south of Milwaukee, found to have been justified. Order of suspension vacated.

Colorado class rates. (37 I. C. C., 203.)

4916. Proposed withdrawal of present Colorado common-point class rates from St. Paul, Minn., rate territory to common points south of Denver, Colo., and the establishment, in lieu thereof, of through rates based on the combination of intermediate rates over Sioux City, Iowa, found not to be justified. Cancellation of the suspended schedules directed and respondents ordered to maintain for a period of not less than two years rates from the St. Paul territory no higher than those contemporaneously maintained from St. Louis.

Lumber rates to eastern cities. (37 I. C. C., 212.)

4917. Proposed increased rates on lumber of all kinds from points on the Tremont & Gulf, Louisiana & Arkansas, and other lines of railway in Louisiana and Arkansas to Baltimore, Philadelphia, New York, Boston, and other eastern destinations taking the same rates found to be justified, and order suspending their operation directed to be canceled.

Pine Bluff Traffic Bureau v. *Louisville & Nashville Railroad Co.* (37 I. C. C., 218.)

4918. Upon petition that the defendant rail carriers operating between points in the east and Memphis, Tenn., be required to establish through routes and joint rates from eastern points to Pine Bluff, Ark., via Memphis, in connection with the Memphis & Arkansas City Packet Co., which operates a steamboat between Memphis and Rosedale, Miss., and the Pine Bluff & Rosedale Packet Co., which operates a steamboat between Rosedale and Pine Bluff; and that such joint rates be less than the present all-rail rates; *Held*, That the interest of the public does not require that through routes and joint rates be established while prevailing conditions continue. Complaint dismissed.

Union Lumber Co. v. *Gulf, Colorado & Santa Fe Railway Co.* (37 I. C. C., 225.)

4919. Upon complaint that the defendant unlawfully refuses to switch cars to and from the complainant's sawmill at Milvid, Tex., or to pay the complainant for performing the service with its own power, and that the defendant unjustly discriminates against the complainant in that it pays allowances to the com-

plainant's competitors for performing switching services under similar circumstances; *Held*, That the evidence fails to show that the defendant's refusal to perform a switching service for the complainant or to pay the complainant for performing the service for itself is unlawful; and that it is not shown that the complainant is subjected to undue discrimination within the meaning of the act.

Coal from Toluca, Ill. (37 I. C. C., 230.)

4920. Proposed cancellation of joint rates which would result in increased rates on coal from Toluca, Ill., to interstate points on the Chicago, Milwaukee & St. Paul Railway found not justified.

Felin & Co. v. *Philadelphia & Reading Railway Co.* (37 I. C. C., 231.)

4921. Failure of defendant to make complainant an allowance for yardage services at Philadelphia, Pa., on interstate shipments of hogs not found unjustly discriminatory.

McCormick & Co. v. *Southern Pacific Co.* (37 I. C. C., 234.)

4922. The existing relation of rates on lumber and timber from San Pedro, Cal., to points in the state of Arizona indicates an apparent unlawful discrimination, but as the present record is inadequate for a determination of the questions involved, the case will be further heard.

American Creosote Works v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (37 I. C. C., 238.)

4923. Charges for transportation of lumber from points in Texas, creosoted in transit at New Orleans, La., for export, found unreasonable and unjustly discriminatory. Reparation awarded.

Pitt Gas Coal Co. v. *Pennsylvania Railroad Co.* (37 I. C. C., 240.)

4924. Present rate on coal from Besco, Pa., to Ashtabula Harbor, Ohio, and other lake ports in the state of Ohio, when for transshipment by vessels on the great lakes to points beyond, found to be unreasonable to the extent that it exceeds 78 cents per net ton. The southern boundary of the Pittsburgh district is changed to include Besco.

Black & White River Transportation Co. v. *Missouri Pacific Railway Co.* (37 I. C. C., 244.)

4925. The increased through charges resulting from the cancellation by the defendant rail carriers, in May, 1912, of joint rates in connection with the complainant on lumber and other forest products taking the same rates from landings on the Black and White rivers, in Arkansas, to interstate destinations on the defendants' lines, not found justified, and the reestablishment of joint rates required.

Eagle Ice Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (37 I. C. C., 250.)

4925 (a). Increased carload rate of 3.5 cents per 100 pounds on ice when moving in ordinary box cars from certain points in Wiscosin to Chicago, Ill., not justified. Reasonable rates for the future prescribed and reparation awarded.

Steamship "Great Northern." (37 I. C. C., 260.)

Upon an investigation into the ownership and operation of the steamships *Great Northern* and *Northern Pacific* by the Great Northern Pacific Steamship Co., and it being found that this steamship company is owned by the Spokane, Portland & Seattle Railway Co., which is, in turn, owned by the Great Northern Railway Co. and the Northern Pacific Railway Co.; *Held:*

4926. The Northern Pacific Railway and Great Northern Railway and the Spokane, Portland & Seattle Railway do or may compete with these steamers in their operations between Flavel, Oreg., and San Francisco, Cal., within the meaning of the act.

4927. The service of the Great Northern Steamship Co. here considered is in the interest of the public and is of advantage to the convenience and commerce of the people. A continuance of same will neither exclude, prevent, nor reduce competition on the route by water, and should be permitted.

4928. All the rates, fares, schedules, and regulations of the Great Northern Steamship Co. covering traffic subject to the act moved by it in the operations considered herein must be filed with the Commission and posted to the public, as required by the act and the rules and regulations of the Commission.

Divisions of joint rates applicable to railway fuel coal. (37 I. C. C., 265.)

4929. Rulings of the Commission relative to rates and divisions of rates on fuel coal reviewed.

4930. Commission deems it desirable that all carriers subject to its jurisdiction be required to file their divisions of joint rates applicable on railway fuel coal, in the transportation of which they participate, and that they be required further, when changes are made in such divisions, to file a statement of facts relied upon as justification for such changes. An appropriate general order will issue under the provisions of section 6.

Mace v. *Pennsylvania Railroad Co.* (37 I. C. C., 268.)

4931. Increased commutation fares on the Philadelphia, Baltimore & Washington Railroad Co. between Baltimore and Washington justified.

Detroit Reconsigning Case. (37 I. C. C., 274.)

4932. The tariffs of respondents authorized, under certain circumstances, a charge of $2 per car for reconsigning coal at Detroit, Mich., to points within the switching limits of that city, but the provisions of the tariff did not, as contended by the complainant, make the imposition of the charge conditional upon the terminal carriers having first given the consignee at Detroit notice that the car had arrived at Toledo, Ohio. Charges collected upon the shipments involved in the complaint not shown to have been unreasonable. Reparation denied and complaint dismissed.

Worn v. *Boca & Loyalton Railroad Co.* (37 I. C. C., 283.)

4933. Upon rehearing, finding in original report that complainants were entitled to reparation reversed and claim for reparation denied.

Cattle Raisers Stockyards Asso. v. *El Paso & Southwestern Co.* (37 I. C. C., 284.)

4934. The complainant alleges undue preference by the defendants of the El Paso Union Stockyards Co. of El Paso in the handling of cattle in that city. At the hearing an understanding was reached satisfactory to the complainant. The complaint is dismissed.

National Petroleum Asso. v. *Atchison, Topeka & Santa Fe Railway Co.* (37 I. C. C., 287.)

4935. Upon complaints that defendants have collected, or seek to collect, charges based on rates higher than their published rates applicable to petroleum tailings in carloads shipped from oil refineries in the state of Kansas, and from an oil refinery at Vinita, in the state of Oklahoma, to East St. Louis, Granite City, and Chicago, Ill., East Chicago and Gary, Ind., and Racine and Milwaukee, Wis.; *Held*, That the published rates on petroleum tailings were lawfully applicable to the shipments involved and that refund of overcharges will be ordered on proper showing. Waiver of certain undercharges outstanding authorized.

Milliken Refining Co. v. *Missouri, Kansas & Texas Railway Co.* (37 I. C. C., 295.)

4936. Rate of 29 cents per 100 pounds for the transportation of refined petroleum and its products in carloads from Vinita, Okla., to Windsor, Mo., found to have been unreasonable to the extent that it exceeded 17 cents. Reparation awarded.

Public Service Commission of Missouri v. *Wabash Railroad Co.* (37 I. C. C., 297.)

4937. Rates for the transportation of apples in carloads from points in a producing region in the valley of the Missouri River, lying for the most part between Omaha, in the state of Nebraska, and Kansas City, in the state of Missouri, to various points north, east, and southeast, with the exception of rates to Sioux City, Iowa, found not to be unreasonable or unjustly discriminatory; except that the rates to that station are found to be unjustly discriminatory.

Rates via rail-and-lake routes. (37 I. C. C., 302.)

4938. Proposed increased class and commodity rates via rail-and-lake, lake-and-rail, and rail-lake-and-rail routes between points in the New England and the middle Atlantic states, and the west, found not to have been justified. Tariffs required to be canceled.

Oden & Elliott v. *Seaboard Air Line Railway.* (37 I. C. C., 345.)

4939. Following the principles announced in *Nicola, Stone & Myers Co.* v. *L. & N. R. R. Co.*, 14 I. C. C., 199, claims for reparation on shipments of yellow-pine lumber from points in Alabama and Mississippi to various destinations, based on the Commission's decisions in *Central Yellow Pine Asso.* v. *I. C. R. R. Co.*, and *Tift* v. *S. Ry. Co.*, 10 I. C. C., 505 and 548, denied, except as to certain shipments upon which complainants bore the charges for the transportation.

Manufacturers & Merchants' Asso. v. *Aberdeen & Asheboro Railroad Co.* (37 I. C. C., 350.)

4940. Upon reconsideration of the question of reparation, conclusion of original report herein, denying complainants' right thereto, affirmed.

Traffic Bureau of the Sioux City Commercial Club v. *Anderson & Saline River Railroad Co.* (37 I. C. C., 353.)

4941. Where there is no privity of interest between the consignor and consignee the filing of a claim for reparation by the consignee does not constitute a filing by or on behalf of the consignor and will not stop the running of the statute of limitations as to the consignor.

4942. Upon facts and circumstances substantially similar to those considered in *Omaha Commercial Club* v. *A. & S. R. Ry. Co.*, 27 I. C. C., 302. *Held*, That the consignees are without interest in the charges paid and are not entitled to reparation. Reparation awarded to consignors upon certain shipments.

East Jersey Railroad & Terminal Co. v. *Central Railroad Co. of N. J.* (37 I. C. C., 357.)

4943. Upon consideration of evidence regarding certain changes in rates to New York, following *The Five Per Cent Case*, 32 I. C. C., 325, conclusions in original report modified and *Held*, That joint rates should be established in connection with the terminal company to New York, including points in New York harbor within the established lighterage limits and delivery on board vessels in New York harbor for export, not in excess of those contemporaneously maintained by defendants to New York over other routes.

Rates on tin cans and other commodities. (37 I. C. C., 360.)

4944. Respondents' proposed adjustment of rates on empty carriers, returned, found just and reasonable and tariff prescribing rates in accordance therewith permitted to be filed.

Omaha Grain Exchange v. *Mobile & Ohio Railroad Co.* (37 I. C. C., 363.)

4945. Rates on blackstrap molasses from Mobile, New Orleans, and other points in Louisiana to Omaha not shown to have been unreasonable. Reparation denied.

Westbound transcontinental rates on buckwheat and corn flour. (37 I. C. C., 364.)

4946. On rehearing, found that for the future no higher rates should be maintained by respondents on buckwheat flour or corn flour in carloads from producing points in transcontinental groups A to J, inclusive, to California terminals and intermediate points than are contemporaneously maintained on wheat flour in carloads from and to the same points.

Sugar beets to Decatur, Ind. (37 I. C. C., 367.)

4947. Rates on sugar beets from Indiana points to Decatur, Ind., applicable on interstate traffic, were carried forward in the schedule under suspension without increase. Order of suspension vacated.

4948. Proposed increased rates on sugar beets from Lima, Kemp, Spencerville, Elgin, Ohio City, Glenmore, and Wren, Ohio, to Decatur, Ind., not justified.

4949. Authority granted to establish rates on sugar beets not in excess of 53 cents per net ton from Lima, Kemp, and Spencerville to Decatur.

Fabrication in transit at Greenville, Pa. (37 I. C. C., 370.)

4950. Proposed restriction of fabrication-in-transit service at Rochester, Ind., and Greenville, Pa., to iron and steel articles intended for framework or sections for bridges or buildings found to have been justified. Order suspending operation of tariff vacated.

Stone to Des Moines, Iowa. (37 I. C. C., 372.)

4951. Proposed increased rates on stone of all kinds, rough or dressed, not lettered or figured, from the twin cities to Des Moines, Iowa, found to have been justified for dressed stone but not for rough stone.

Ferromanganese to western points. (37 I. C. C., 374.)

4952. Proposed withdrawal of import rates on ferromanganese from eastern ports to central freight association territory found to be justified. Suspension orders vacated.

Stearns & Culver Lumber Co. v. *Louisville & Nashville Railroad Co.* (37 I. C. C., 376.)

4953. Charges collected for the transportation of one locomotive, not under steam, on its own wheels, from Erie, Pa., to Pensacola, Fla., reconsigned to Milton, Fla., not shown to have been unreasonable. Complaint dismissed.

Omaha Packing Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (37 I. C. C., 378.)

4954. Between January 12, 1913, and April 6, 1913, the rate charged for the transportation of live hogs, in carloads, from points in Iowa on the Chicago, Milwaukee & St. Paul Railway to complainant's plant at Chicago, Ill., was the Chicago rate plus a $6 switching charge imposed by the Chicago, Burlington & Quincy Railroad. On April 6, 1916, the Milwaukee provided for the absorption of $4 of the switching charge, which provision is still in effect; *Held*, That the present rate to complainant's plant is just and reasonable, but that the previous rate was unreasonable. Reparation awarded on the basis of the present rate.

Hottelet & Co. v. *Chesapeake & Ohio Railway Co.* (37 I. C. C., 382.)

4955. Rates charged for the transportation of brewers' dried grains in carloads from Louisville, Ky., to Manassas and Nokesville, Va., found not unreasonable. Complaint dismissed.

4956. Fourth section question involved decided in *Class and Commodity Rates from Louisville*, 36 I. C. C., 317.

Hygienic Ice Co. v. *Chicago & North Western Railway Co.* (37 I. C. C., 384.)

Complainant seeks reparation on certain carload shipments of ice from Wisconsin points to various delivery stations in the Chicago, Ill., switching district in the full amount of switching charges imposed over and above the flat Chicago rate; *Held:*

4957. That the statute of limitations has run against claims for any amounts in excess of $3 per car, the amount claimed on the informal docket.

4958. That complainant, the owner of the property transported, is the one who has been damaged by paying and finally bearing the transportation charges found to be unreasonable and discriminatory and the one entitled to reparation.

4959. Shippers may not be heard to demand redress from the carriers for commercial losses, assumed for the purpose of equalizing transportation costs.

Axton v. *Kanawha & Michigan Railway.* (37 I. C. C., 389.)

4960. Rates charged by defendants for the transportation of glass bottles in carloads from Dunbar, W. Va., to Midway and Frankfort, Ky., found unreasonable and unjustly discriminatory, and rates to Mount Sterling and Lexington, Ky., found unjustly discriminatory, to the extent that they exceeded the rates contemporaneously charged on like traffic to Louisville, Ky.

4961. Authority to charge rates on glass bottles in carloads from Dunbar, W. Va., to Mount Sterling, Lexington, Midway, and Frankfort, Ky., higher than those contemporaneously charged on similar traffic to Louisville, Ky., denied.

Empire Cotton Oil Co. v. *Atlanta, Birmingham & Atlantic Railroad Co.* (37 I. C. C., 394.)

4962. Rate of $3.40 per net ton charged on five carload shipments of slag from Bessemer, Ala., to McRae, Ga., found to have been unreasonable to the extent that it exceeded $1.54 per net ton. Reparation awarded.

Kempner v. *Missouri, Kansas & Texas Railway Co.* (37 I. C. C., 396.)

4963. Charges collected on five carloads of damaged cotton shipped in sacks from Greenville, Tex., to Galveston, Tex., held not within the jurisdiction of the Commission.

65001°—16—10

Watrous-Acme Manufacturing Co. v. *Pere Marquette Railroad Co.* (37 I. C. C., 398.)

4964. Charges collected for the transportation of pieces of steel left after automobile bodies had been cut from the original steel sheets not shown to have been unreasonable. Complaint dismissed.

Beekman Lumber Co. v. *Missouri Pacific Railway Co.* (37 I. C. C., 400.)

4965. Demurrage charges accruing at point of origin as a result of refusal of defendants' agent to forward a shipment as tendered by complainant found to have been collected unlawfully. Reparation awarded.

Darling & Co. v. *Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co.* (37 I. C. C., 401.)

4966. Demurrage was assessed by defendant on a carload of fertilizer held at destination pending the arrival of a second car, both cars having been covered by a single bill of lading; *Held*, That demurrage charges are prescribed as a penalty per car with the object of conserving equipment. The charges collected are not shown to have been unlawful or unreasonable. Complaint dismissed.

National Pickle & Canning Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (37 I. C. C., 403.)

4967. Rates charged for the transportation of pickles in carloads, in cases, casks, or barrels, from New Lisbon, Wis., to Chicago, Ill., found to have been unjustly discriminatory. Reparation denied.

Standard Paint Co. v. *Southern Pacific Co.* (37 I. C. C., 405.)

4968. Charges collected for the transportation of 34 carloads of liquid asphaltum in tank cars from Paraffin, Cal., to Chicago Heights, Ill., at the lawful rate and estimated weight of 8.6 pounds per gallon, based on the marked gallon capacity of cars, found unreasonable to the extent that they exceeded charges that would have accrued at the lawful rate, based upon an estimated weight of 7.9 pounds per gallon and the marked gallon capacity of the cars used. Reparation awarded.

Chicago, West Pullman & Southern Railroad Co. Case. (37 I. C. C., 408.)

4969. Connecting carriers directed to revise their joint rate or switching arrangements with the Chicago, West Pullman & Southern Railroad Co. so as to conform with the principles herein announced.

4970. Where a trunk line permits an industrial line to operate over trunk line tracks, the arrangement may be just and proper so long as it is for their mutual benefit and does not prevent the trunk line from performing its public duties.

4971. In so far as the division or allowance accorded the industrial line covers the operation over the tracks of the trunk line, the division or allowance may not exceed the operating and investment cost to the trunk line had the trunk line performed the same service by more than the proportionate share which that particular traffic should bear of the compensation paid by the industrial line for the use of the tracks; nor may the division or allowance exceed what would be just and proper under the principles applicable where the operation is over the tracks of the industrial line.

Ocean Steamship Co. of Savannah Case (37 I. C. C., 422).

Upon application of the Central of Georgia Railway Co., to which the Illinois Central Railroad Co. was made a party in interest by order of the Commission, under the provisions of section 5 of the act to regulate commerce, as amended by the Panama Canal act, for an extension of time beyond July 1, 1914, during which operation of the Ocean Steamship Co. of Savannah might be continued; *Held:*

4972. Both the Central of Georgia Railway Co. and Illinois Central Railroad Co. may or do compete with the steamship company within the meaning of the act.

4973. The present operation of the steamship company is in the interest of the public and of advantage to the convenience and commerce of the people; its continued ownership and operation by the Central of Georgia Railway Co. will neither exclude, prevent, nor reduce competition on the routes by water under consideration; and the application should be granted.

4974. All the rates, fares, schedules, and regulations applicable to the movement by the steamship company of traffic subject to the act must be filed with the Commission and posted as required by the act to regulate commerce and the rules and regulations of the Commission.

Coal from Colorado and Wyoming mines. (37 I. C. C., 430.)

4975. Proposed increased rates on bituminous lump coal in carloads from mines in Colorado and Wyoming to destinations in Nebraska and Colorado on the lines of the Union Pacific Railroad not justified.

Peninsular & Occidental Steamship Co. Case. (37 I. C. C., 432.)

Upon applications of the Florida East Coast Railway Co. and the Atlantic Coast Line Railroad Co., under the provisions of section 5 of the act to regulate commerce, as amended by the Panama Canal act, for an extension of time beyond July 1, 1914, during which to continue the operation of the Peninsular & Occidental Steamship Co.; *Held:*

4976. Neither the Atlantic Coast Line Railroad nor the Florida East Coast Railway does or may compete with the steamship company in its present operation between Miami and Nassau, and as to that service its continued operation will not be in violation of the provisions of section 5 of the act.

4977. The Florida East Coast Railway may or does compete with the steamship company for traffic moving between Jacksonville and Key West.

4978. The Florida East Coast Railway may or does compete with the steamship company for traffic moving between Jacksonville and Havana.

4979. The Atlantic Coast Line Railroad may or does compete with the steamship company for traffic moving between points north of Jacksonville and Key West and Havana.

4980. The operation of the steamship company is in the interest of the public and of advantage to the convenience and commerce of the people.

4981. Final action deferred and case held open for 60 days pending revision by petitioners of their rates and the divisions thereof in harmony with the views expressed herein.

4982. All the rates, fares, schedules, and regulations applicable to the movement by the steamship company of traffic subject to the act must be filed with the Commission and posted as required by the act to regulate commerce and the rules and regulations of the Commission.

Markle Co. v. *Lehigh Valley Railroad Co.* (37 I. C. C., 441.)

Upon complaint that rates applying upon anthracite coal in carloads from certain collieries in the Lehigh coal region of Pennsylvania to Perth Amboy f. o. b. vessels for transshipment are unreasonable and unjustly discriminatory; *Held:*

4983. Reasonable rates for the future will be secured complainants by the order entered in *Rates for transportation of anthracite coal*, 35 I. C. C., 220.

4984. Following *Plymouth Coal Co.* v. *L. V. R. R. Co.*, 36 I. C. C., 140, defendant found to have justified its refusal to continue to furnish storage bins at Perth Amboy, N. J., for the free storage of anthracite coal, and defendant's demurrage regulations governing anthracite coal awaiting transshipment at Perth Amboy found reasonable.

4985. Question of reparation held in abeyance for determination in a supplemental report.

New Orleans Joint Traffic Bureau v. *Abilene & Southern Railway Co.* (37 I. C. C., 444.)

4986. Difference of 13 cents per 100 pounds between the import rate on burlap in carloads and the domestic rate on burlap bags in carloads from New Orleans, La., to Dallas, Tex., found unduly prejudicial to shippers of the latter commodity and a maximum difference of 5 cents prescribed.

4987. Record insufficient to justify a finding as to the reasonableness of the present rates on burlap bags in carloads and in less than carloads from New Orleans to Dallas.

Kosmos Portland Cement Co. v. *Illinois Central Railroad Co.* (37 I. C. C., 449.)

4988. The present adjustment of rates on cement to points in Illinois, Indiana, and Ohio found to subject Kosmosdale, Ky., to undue prejudice and disadvantage and to unduly prefer Sellersburg, Ind., and other points.

The boat "H. B. Plant." (37 I. C. C., 453.)

Upon application of the Atlantic Coast Line Railroad Co., under the provisions of section 5 of the act to regulate commerce, as amended by the Panama Canal act, for an extension of time beyond July 1, 1914, during which to con-

tinue the operation of the boat *H. B. Plant* through the St. Petersburg Transportation Co.; *Held:*

4989. Petitioner may or does compete, with the boat *H. B. Plant* operated by St. Petersburg Transportation Co.

4990. The operation of the boat *H. B. Plant* as at present conducted by the St. Petersburg Transportation Co., is in the interest of the public and of advantage to the convenience and commerce of the people, and, as the Commission is at present advised, its continued operation will neither exclude, prevent, nor reduce competition on the route by water, and the application should be granted.

4991. All the rates, schedules, and regulations applicable to the movement by the *H. B. Plant* of traffic subject to the act must be filed with the Commission and posted to the public as required by the act to regulate commerce and the rules and regulations of the Commission.

Plymouth Coal Co. v. *Pennsylvania Railroad Co.* (37 I. C. C., 457.)

Upon complaint that rates applying upon anthracite coal in carloads from Plymouth and Luzerne, Pa., to South Amboy and Hoboken, N. J., f. o. b. vessels for transshipment are unreasonable; *Held:*

4992. Reasonable rates for the future will be secured complainants by the order entered in *Rates for transportation of anthracite coal*, 35 I. C. C., 220.

4993. Question of reparation held in abeyance for determination in a supplemental report.

Red Ash Coal Co. v. *Central Railroad Co. of N. J.* (37 I. C. C., 460.)

Upon complaint that rates applying upon anthracite coal in carloads from Ashley, Pa., to Elizabethport and Port Johnston, N. J., f. o. b. vessels for reshipment are unreasonable; *Held:*

4994. Reasonable rates for the future will be secured complainant by the order entered in *Rates for transportation of anthracite coal*, 35 I. C. C., 220.

4995. Following *Plymouth Coal Co.* v. *D., L. & W. R. R. Co.*, 36 I. C. C., 76, defendant's demurrage regulations governing anthracite coal awaiting transshipment at or near Elizabethport and Port Johnston found reasonable.

4996. Question of reparation held in abeyance for determination in a supplemental report.

Cumberland Transportation Co. v. *Cincinnati, New Orleans & Texas Pacific Railway Co.* (37 I. C. C., 463.)

4997. Upon the filing of a satisfactory bond by the complainant, defendants will be required to establish through routes and joint rates with the complainant between landings on the Cumberland River in Kentucky and Tennessee and interstate points on defendants' lines in the same manner, on the same terms, and to the same extent as such through routes and joint rates are maintained by the defendants in connection with the complainant's competitor, the Burnside & Burkesville Transportation Co.

Safety appliances on equipment of railroads in Porto Rico. (37 I. C. C., 470.)

4998. Respondents' trains composed of cars exclusively used for transportation of sugar cane might well be excepted, as recommended to Congress, from the provisions of the safety appliance acts relating to power brakes.

4999. Pending action by Congress in the premises, locomotives and cars of respondents must be made to conform with the requirements of those acts.

5000. Order of April 17, 1913, vacated as of January 1, 1917, in so far as it extends the time for full compliance with those acts.

Classification nesting rule. (37 I. C. C., 477.)

5001. Rule relating to the nesting of articles recommended by the Committee on Uniform Classification slightly amended and with certain exceptions authorized for use in official, southern, and western classification territories. A few articles that can not conform to the restrictions surrounding a recognized practice should not prevent establishment of a uniform general rule. Ratings on such articles should be treated separately.

Broom corn to Cincinnati. (37 I. C. C., 482.)

5002. Proposed increased rate on broom corn in carloads from East St. Louis, Ill., to Cincinnati, Ohio, found to have been justified, and orders of suspension vacated.

Broom corn to Frankfort. (37 I. C. C., 485.)

5003. Proposed increased rate on broom corn in carloads from East St. Louis, Ill., to Frankfort, Ky., found to have been justified and order of suspension vacated.

Fruits and vegetables from Grand Rapids. (37 I. C. C., 489.)

5004. Proposed cancellation of commodity rates on green fruits in straight or mixed carloads and green fruits and vegetables in mixed carloads from Grand Rapids, Mich., via interstate routes to destinations in the upper peninsula of Michigan found justified.

Indiana Northern Railway Case. (37 I. C. C., 491.)

5005. The Indiana Northern Railway found to be a common carrier with which connecting lines may join in publishing through rates or to which they may grant allowances for interchange switching, although under no obligation to do so.

5006. An allowance for interchange switching greater than $1.50 per car found to be excessive.

Lorain & Southern Railroad Co. Case. (37 I. C. C., 497.)

5007. Upon consideration of all the circumstances of record, *Held*, That under its present rates and practices the Lake Shore & Michigan Southern Railway Co. is giving to the Cleveland Stone Co. and its traffic an undue and unreasonable preference and advantage and subjecting the Ohio Quarries Co. and its traffic to an undue and unreasonable prejudice and disadvantage.

Brownsville Cotton Oil and Ice Co. v. *Chicago, Rock Island & Pacific Railroad Co.* (37 I. C. C., 503.)

5008. Rates on cottonseed oil, meal, hulls, and cake from Brownsville, Tenn., to points east of the Mississippi River and on or north of the Ohio River, found unjustly discriminatory to the extent that they exceed the rates contemporaneously maintained from Memphis, Tenn.

5009. Rates on compressed cotton linters from Brownsville to points east of the Mississippi River and on or north of the Ohio River, found unjustly discriminatory to the extent that they exceed by more than 10 cents per 100 pounds the rates contemporaneously maintained from Memphis.

5010. Fourth section application denied as to cottonseed oil, meal, hulls, and cake, and granted in part as to cotton linters.

5011. Reparation denied.

W. P. Brown & Sons Lumber Co. v. *Louisville & Nashville Railroad Co.* (37 I. C. C., 507.)

5012. Defendant's rates for the transportation of hardwood lumber and logs in carloads from points in Alabama, Tennessee, and Kentucky to Louisville, Ky., Evansville, Ind., and Cincinnati, Ohio, not found to be unreasonable or otherwise in conflict with the act. Complaint dismissed.

Drake Marble & Tile Co. v. *Northern Pacific Railway Co.* (37 I. C. C., 512.)

5013. Reparation awarded on account of unreasonable charges collected for the transportation of a mixed carload of polished building marble and crushed marble from St. Paul, Minn., to Bismarck, N. Dak.

5014. Rates and ratings on polished building marble and dressed building marble in carloads from St. Paul, Minn., to points in Minnesota, North Dakota, and South Dakota found unjustly discriminatory to the extent that they exceed the rates and ratings on polished building stone and dressed building stone in carloads, respectively.

5015. Charges for the transportation of building marble, building stone, and crushed marble in mixed carloads from St. Paul, Minn., to points in Minnesota, North Dakota, and South Dakota found unreasonable to the extent that they exceed the charges that would accrue on the basis of the highest carload rate and highest minimum weight applicable to any article in the mixture.

5016. Charges established by defendants for the transportation of mixed carloads of building marble, crushed marble, and cement from St. Paul, Minn., to points in Minnesota and North and South Dakota, found to be unreasonable to the extent that they exceed the charges that would accrue upon the basis of the highest carload rate and highest minimum weight applicable to any article in the shipment.

Drake Marble & Tile Co. v. *Great Northern Railway Co.* (37 I. C. C., 517.)

5017. Charges applicable over defendant's line for the transportation of a mixed carload of dressed building marble and crushed marble from St. Paul, Minn., to Bellingham, Wash., found to have been unreasonable. Defendant's rates for the transportation of dressed building marble and polished building marble from St. Paul, Minn., to Bellingham, Wash., found to have been unjustly discriminatory.

McLean Lumber Co. v. *Alabama, Tennessee & Northern Railway.* (37 I. C. C., 520.)

5018. Rate of 16 cents per 100 pounds charged for the transportation of logs in carloads from Boyd, Ala., to Chattanooga, Tenn., found to have been unreasonable to the extent that it exceeded 13.5 cents per 100 pounds. Reparation awarded.

Davis v. *Minneapolis, St. Paul & Sault Ste. Marie Railway Co.* (37 I. C. C., 523.)

5019. Rates charged for the transportation from Manistique, Mich., to Gladstone, Mich., of shipments of hard and soft coal, in carloads, originating in Pennsylvania and West Virginia, found to have been unreasonable to the extent that they exceeded rates of 75 and 50 cents per net ton, respectively. Rates of 75 cents on hard coal and 50 cents on soft coal prescribed as maxima for the future. Reparation awarded.

American Steel & Wire Co. v. *Alabama & Vicksburg Railway Co.* (37 I. C. C., 525.)

5020. The item of the southern classification effective April 20, 1914, here complained of, having been canceled since the hearing, the complaint is dismissed.

5021. It is suggested that defendants revise their classification descriptions on certain iron and steel articles, making them more definite.

Southern Pacific Co.'s ownership of oil steamers. (37 I. C. C., 528.)

5022. Upon rehearing on the application of the Southern Pacific Co. for an extension of time during which it may continue to operate oil steamers between certain points on the Pacific coast through its interest in the Associated Oil Co., and in the light of the new and additional facts of record on rehearing; *Held*, That so long as their respective operations remain as at present the Southern Pacific Co. does not and may not compete with the steamers of the Associated Oil Co., and that their continued ownership and operation by the Southern Pacific Co. through the Associated Oil Co. is not and will not be in violation of section 5 of the act to regulate commerce as amended by the Panama Canal act.

Cape Girardeau Portland Cement Co. v. *St. Louis & San Francisco Railroad Co.* (37 I. C. C., 538.)

5023. Rate of 36 cents per 100 pounds on cement from Cape Girardeau, Mo., to Raceland, La., not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Taylor & Co. v. *Wabash Railroad Co.* (37 I. C. C., 540.)

5024. Rates charged for the transportation of wooden railroad ties in carloads from St. Louis, Mo., to Chicago, Ill., found to have been unreasonable to the extent that they exceed the aggregate of the intermediate rates contemporaneously applicable to and from East St. Louis, Ill. Reparation awarded.

Pilcher Hardware Co. v. *Chicago & North Western Railway Co.* (37 I. C. C., 542.)

5025. Following *Griffing* v. *C. & N. W. Ry. Co.*, 25 I. C. C., 134, the two and one-half times first-class rate charged for the transportation of one motorcycle from Milwaukee, Wis., to Ida Grove, Iowa, found to have been unreasonable. Reparation awarded.

Taffe v. *American Express Co.* (37 I. C. C., 544.)

5026. Reparation awarded on account of unreasonable charges collected for the transportation of a carload of fresh fish from Celilo, Oreg., to New York, N. Y.

Baker-Wakefield Cypress Co. v. *Texas & Pacific Railway Co.* (37 I. C. C., 546.)

5027. Carload of cypress shingles shipped from Plattenville, La., to Huntington, W. Va., found not to have been misrouted. Complaint dismissed.

Fisher Manufacturing Co. v. *New York, New Haven & Hartford Railroad Co.* (37 I. C. C., 547.)

5028. Reparation awarded on account of switching charges collected in excess of the lawful tariff charges.

Grain from Manitowoc. (37 I. C. C., 549.)

5029. Proposed increased reshipping rates on grain and grain products, and proposed increased charges under the reshipping rates on grain, to be effected by the withdrawal of transit service, the imposition of a switching charge, and an increase in the minimum weights, from Manitowoc and Milwaukee, Wis., Chicago, Ill., and other points, to central freight association and trunk line territories, the Virginia cities, and other points, on shipments routed by way of the Pere Marquette Railroad and the Ann Arbor Railroad and connections, found not justified and ordered canceled.

Chestnut Ridge Railway Case. (37 I. C. C., 558.)

5030. The Lehigh & New England Railroad directed to revise its switching arrangements with the Chestnut Ridge Railway in the manner indicated herein.

Moshassuck Valley Railroad Case. (37 I. C. C., 566.)

5031. Upon the facts of record the present divisions of through rates accorded the Moshassuck Valley Railroad found not excessive.

5032. Giving long-time credit to proprietary industries constitutes an unlawful concession and an unjust discrimination against shippers who ordinarily are required to pay their freight charges promptly.

Elm City Lumber Co. v. *Atlantic Coast Line Railroad Co.* (37 I. C. C., 571.)

5033. Reparation awarded on account of an unreasonable rate charged for the transportation of a carload of lumber from Spring Hope, N. C., to Yardley, Pa.

Canales v. *Galveston, Harrisburg & San Antonio Railway Co.* (37 I. C. C., 573.)

5034. Complaint alleging that unreasonable charges were collected for the transportation of a shipment of sugar in bond from a point in Mexico, through the United States, to another point in Mexico, dismissed for want of jurisdiction.

Hossafous v. *Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co.* (37 I. C. C., 575.)

5035. Rate charged for the transportation of two carloads of logs from Cambridge City, Ind., to Dayton, Ohio, found to have been unreasonable. Reparation awarded.

Birdsboro Stone Co. v. *Pennsylvania Railroad Co.* (37 I. C. C., 577.)

5036. Rates charged by defendants for the transportation of certain carload shipments of road stone from Monocacy, Pa., to various points in Delaware found to have been unreasonable. Reparation awarded.

Indiana Veneer & Lumber Co. v. *St. Louis, Iron Mountain & Southern Railway Co.* (37 I. C. C., 579.)

5037. Rate of 20 cents per 100 pounds for the transportation of logs in carloads from Haynes, Ark., to Indianapolis, Ind., and rate of 23 cents per 100 pounds from McGehee, Ark., to Indianapolis not shown to have been unreasonable. Complaint dismissed.

5038. Authority to continue rates on logs in carloads from Snow Lake, Ark., to St. Louis, Mo., which are lower than those concurrently applicable on like traffic from Haynes, Ark., and other intermediate points; and from Arkansas City., Ark., to St. Louis, Mo., and East St. Louis and Thebes, Ill., which are lower than those concurrently applicable on like traffic from McGehee, Ark., and other intermediate points, denied.

Skinner Bending Co. v. *Toledo, St. Louis & Western Railroad Co.* (37 I. C. C., 582.)

5039. Claim for reparation denied because formal complaint filed more than two years after the claim accrued was not filed within a reasonable time after a timely informal complaint was withdrawn.

Bradley Timber & Railway Supply Co. v. *Canadian Northern Railway Co.* (37 I. C. C., 583.)

5040. Rate of 27 cents per 100 pounds for the transportation of a carload of lumber from Beaudette, Minn., to Vincennes, Ind., not found to have been unreasonable. Complaint dismissed.

Houston Packing Co. v. *International & Great Northern Railway Co.* (37 I. C. C., 584.)

5041. Defendants' rate for the transportation of packing-house products in carloads from Houston, Tex., to New Orleans, La., not found unreasonable or unjustly discriminatory. Complaint dismissed.

Brown Paper Co. v. Boston & Albany Railroad Co. (37 I. C. C., 586.)

5042. Defendants' combination less-than-carload rate on writing paper from Adams, Mass., to Philadelphia, Pa., routed by way of Sixtieth street, New York City, not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

New Monarch Machine & Stamping Co. v. *Indiana Harbor Belt Railroad Co.* (37 I. C. C., 589.)

5043. Rates charged for the transportation of straight iron rods, round, with threaded ends, from Indiana Harbor, Ind., to Des Moines, Iowa, not found unreasonable or unjustly discriminatory. Complaint dismissed.

Joseph Iron Co. v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (37 I. C. C., 591.)

5044. Joint through rate of 30 cents per 100 pounds on scrap iron from Houston, Tex., through New Orleans, La., to Chicago, Ill., found to have been unreasonable to the extent that it exceeded the sum of the intermediate rates contemporaneously in effect. Fourth section application denied. Reparation awarded.

Crushed stone from Wisconsin points. (37 I. C. C., 593.)

5045. Proposed increased carload rate on crushed stone from Ives and Racine, Wis., to Chicago, Ill., and Chicago district points, found to have been justified.

5046. Proposed increased carload rate on crushed stone from Waukesha, Wis., to Chicago, and straight or mixed carload rate on crushed stone, grout, sand, and gravel from Waukesha and Burlington, Wis., to Chicago, found not to have been justified.

Lumber rates from Newcastle, Cal. (37 I. C. C., 596.)

5047. Proposed increased rates for the transportation of lumber in carloads from Newcastle, Cal., to points on respondent's line between Reno, Nev., and Ogden, Utah, found not to have been justified.

Topeka Traffic Asso. v. *Ahnapee & Western Railway Co.* (37 I. C. C., 598.)

5048. Rates on potatoes in carloads from Wisconsin, Michigan, Minnesota, North Dakota, and South Dakota producing territory to Topeka, Kans., found to be unreasonable and unjustly discriminatory. Reasonable maximum rates prescribed.

Riddle v. *Nashville, Chattanooga & St. Louis Railway.* (37 I. C. C., 602.)

5049. Defendant's rates for the interstate transportation of sand and gravel in carloads from Estill Springs and Henry's Sandcut, Tenn., to various points in Tennessee and Alabama, representing increases since January 1, 1910, found reasonable and complaint dismissed.

Smith v. *Chesapeake & Ohio Railway Co.* (37 I. C. C., 604.)

5050. Defendants' refrigeration charges on apples from Crozet, Va., to Chicago, Ill., iced initially and not re-iced in transit, not found unreasonable. Complaint dismissed.

Industrial Traffic Asso. v. *New York Central & Hudson River Railroad Co.* (37 I. C. C., 607.)

5051. Ratings applied by defendants in official classification territory on less-than-carload shipments of dynamos and electric transformers for scrap purposes not shown to be unreasonable or unjustly discriminatory. Complaint dismissed.

Heyser Lumber Co. v. *Kanawha & West Virginia Railroad Co.* (37 I. C. C., 609.)

5052. Demurrage charges collected upon a car of lumber at Detroit, Mich., not found to have been unlawfully assessed. Complaint dismissed.

Bekkedal v. *Chicago, St. Paul, Minneapolis & Omaha Railway Co.* (37 I. C. C., 611.)

5053. Rate of 17½ cents per 100 pounds for the movement of lumber in carloads, interstate, from Couderay, Wis., to Boscobel and other points in Wisconsin, found unreasonable. Reasonable rates for the future established and reparation awarded.

Zelnicker Supply Co. v. *Missouri, Kansas & Texas Railway Co.* (37 I. C. C., 615.)

5054. The movement of 10 carloads of relaying steel rails from Denison, Tex., to Newton, Tex., held intrastate and beyond the jurisdiction of the Commission.

Colorado Tent & Awning Co. v. *Denver & Rio Grande Railroad Co.* (37 I. C. C., 617.)

5055. Rate charged by defendants for the transportation of waterproofed cotton duck, less than carload, packed in bales, not found to be unreasonable or unjustly discriminatory. Complaint dismissed.

Duluth Log Co. v. *Minneapolis, St. Paul & Sault Ste. Marie Railway Co.* (37 I. C. C., 619.)

5056. Complaint alleging that the charges collected for the transportation of a carload of posts from Mile Post 318, near Remer, Minn., to Minnesota Transfer, Minn., destined to Galesburg, Ill., were excessive because based on a weight in excess of the actual weight, dismissed for want of proof.

General Equipment Co. v. *Atlantic Coast Line Railroad Co.* (37 I. C. C., 620.)

5057. Demurrage charges on three privately owned empty box cars shipped as freight, on their own wheels, from Hobson, Ohio, to Alcolu, S. C., found to have been collected without tariff authority. Reparation awarded.

Keystone Wood Co. v. *Pennsylvania Railroad Co.* (37 I. C. C., 622.)

5058. Defendants required complainant to install at its own expense inside car door protection for certain shipments of kindling wood in carloads from Houghton, Pa., to points in New York and New Jersey, and assessed freight charges on the gross weight of the shipments, including the weight of the doors installed; *Held*, Not unreasonable or unlawful, and complaint dismissed.

Chautauqua Refrigerating Co. v. *Erie Railroad Co.* (37 I. C. C., 625.)

5059. Reparation awarded on account of an unreasonable rate charged for the transportation of 23 carloads of ice from Corry, Pa., to Jamestown, N. Y.

Holmes & Hallowell Co. v. *Great Northern Railway Co.* (37 I. C. C., 627.)

5060. Rates on grain and other commodities from points in Minnesota and adjacent states to Duluth and other stations at the head of the lakes taking the same rates not shown to be unreasonable or unjustly discriminatory.

5061. Class rates upon certain movements between points in Minnesota and points in adjacent states not shown to be unreasonable or unjustly discriminatory.

5062. Rates on anthracite and bituminous coal from Duluth and other points at the head of the lakes to points in Minnesota and adjacent states not shown to be unreasonable, but held to be unjustly discriminatory. Complaints dismissed except in so far as they involve rates on anthracite and bituminous coal, which are reserved for further hearing.

Coal to Rhode Island points. (37 I. C. C., 650.)

5063. Proposed increased all-rail rate on bituminous coal in carloads from the Clearfield district in Pennsylvania to Providence, Auburn, and Olneyville, R. I., found justified.

Bituminous coal rates to the Southeast. (37 I. C. C., 652.)

5064. Upon the facts adduced of record rates on bituminous coal from the Tennessee, Virginia, and West Virginia coal fields to southeastern destinations found to be unduly discriminatory and unreasonable in the particulars pointed out in the report, and a basis for reasonable and nondiscriminatory rates in the future suggested.

5065. The present rates on bituminous coal from the Appalachia and Dante districts, in Virginia, to Spartanburg, S. C., and from the Pocahontas and New River districts, in West Virginia, to Lynchburg, Va., found unreasonable and reasonable rates prescribed for the future.

5066. Joint rates and through routes prescribed on coal from the Pocahontas district to Spartanburg and other points on the Carolina, Clinchfield & Ohio Railway, via St. Paul, Va.

Arizona Stores Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (37 I. C. C. 669.)

5067. Upon complaints asking reparation on account of rates charged on shipments of flour and mixed shipments of flour and corn meal in carloads to Kingman and Winslow, Ariz., from Kansas, Nebraska, Minnesota, Missouri, and Colorado points; *Held* for reasons stated in the report, that reparation should be denied. Complaints dismissed.

Brown-Roberts Hardware & Supply Co. v. *Alabama & Vicksburg Railway Co.* (37 I. C. C., 671.)

5068. Rates on iron and steel lumber wagons in carloads from Quincy, Ill., to Alexandria and Lake Charles, La., found to be unreasonable.

5069. Carriers directed to revise their rates on iron and steel lumber wagons from Quincy to other points in the lumber-producing districts of Louisiana on a basis not higher than the present rates on a type of iron and steel farm wagon described in the report.

Shelbyville Business Men's Asso. v. *Louisville & Nashville Railroad Co.* (37 I. C. C., 675.)

Upon complaint that the defendants' class rates, and many of their commodity rates, between Shelbyville, Ky., and interstate points are unreasonable and unjustly discriminatory because of the alleged unreasonableness and discriminatory character of the factors between Louisville, Ky., and Shelbyville, and that the rates do not conform to the long-and-short-haul provision of the fourth section of the act; *Held*, That—

5070. The rates between Louisville and Shelbyville, applicable to interstate transportation, are not shown to be unreasonable.

5071. The class rates between Louisville and Shelbyville, applicable to interstate transportation, found to be unjustly discriminatory to the extent that they exceed the corresponding class rates contemporaneously maintained, and applicable to interstate transportation, between Louisville and Lexington, Ky., or between Louisville and Georgetown, Ky.

5072. Rates on certain commodities between Louisville and Shelbyville, applicable to interstate transportation, found to be unjustly discriminatory to the extent that they exceed the rates on the same commodities, applicable to interstate transportation, between Louisville and Georgetown, Midway, Lexington, or Paris, Ky.

5073. Class and commodity rates between Louisville and Shelbyville, applicable to interstate transportation, not shown to be unjustly discriminatory as compared with the rates between Louisville and Frankfort, Ky.

5074. Defendants granted authority to continue lower class and commodity rates between Louisville, Ky., and Frankfort, Ky., on interstate traffic, than the rates contemporaneously in effect between Louisville and Shelbyville. Authority to continue lower class and commodity rates between Louisville and Georgetown, Midway, and Lexington, Ky., than between Louisville and Shelbyville, Ky., denied.

Traffic Bureau of Knoxville v. *Cincinnati, New Orleans & Texas Pacific Railway Co.* (37 I. C. C., 687.)

5075. Present joint rates on classes and commodities from Knoxville, Tenn., to certain stations on the Cincinnati, New Orleans & Texas Pacific Railway in the state of Kentucky found unreasonable to the extent that they exceed the rates contemporaneously maintained from Chattanooga, Tenn., to the same destinations.

Cement to Long Island points. (37 I. C. C., 694.)

5076. Proposed increased commodity rates on cement in carloads from points in Pennsylvania and New Jersey to destinations on the Long Island Railroad found justified.

Cement to Ohio points. (37 I. C. C., 697.)

5077. Proposed cancellation of tariff item showing rates on cement in carloads from various points to Fayette, Fayette county, Ohio, delivering line Toledo & Western, found to be justified. Order of suspension vacated.

Salt to Oklahoma. (37 I. C. C., 699.)

5078. At the present time the rates on salt in carloads from producing points in the Michigan and Ohio salt fields to certain destinations in Oklahoma are, respectively, 2⅛ and 3⅛ cents per 100 pounds in excess of the rates from Chicago. The tariff item suspended proposed to effect an increase of 2.04 cents in these differentials; *Held*, That rates from the Michigan field to the destinations here involved should not exceed the rates from Chicago by more than 2⅛ cents and that the rates from the Ohio producing points should not exceed those from Chicago by more than 3⅛ cents.

Pacific Motor Supply Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (37 I. C. C., 703.)

5078 (a). Rates charged for the transportation of motorcycles in carloads from Aurora and Chicago, Ill., Detroit, Mich., Milwaukee, Wis., Middletown and Wagon Works, Ohio, and Armory, Mass., to Los Angeles, San Francisco, and San Diego, Cal., found to have been unreasonable to the extent that they exceeded the first-class rates contemporaneously in effect. Reparation awarded.

Reeves Coal Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (37 I. C. C., 707.)

5079. Defendant's failure properly to advise complainant as to the route traversed by a carload of coal from Roosevelt, Tenn., to Dell Rapids, S. Dak., and defendant's subsequent failure strictly to observe the terms of complainant's reconsigning order; *Held*, Not to be a violation of the act to regulate commerce. Complaint dismissed.

Ludowici-Celadon Co. v. *Missouri, Kansas & Texas Railway Co.* (37 I. C. C., 709.)

5080. Rate charged for the transportation of a carload of roofing tile from Coffeyville, Kans., to Sioux City, Iowa, not found unreasonable or unduly prejudicial. Complaint dismissed.

Passow & Sons v. *Chicago, Milwaukee & St. Paul Railway Co.* (37 I. C. C., 711.)

5081. Charges collected for the transportation of a carload of billiard tables and fixtures from Des Moines, Iowa, to Chicago, Ill., not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Abel & Roberts v. *Missouri Pacific Railway Co.* (37 I. C. C., 712.)

5082. Rate charged for the transportation of brick in carloads from Buffalo, Kans., to Beatrice, Nebr., not found unreasonable. Complaint dismissed.

Cumberland Glass Manufacturing Co. v. *Pennsylvania Railroad Co.* (37 I. C. C., 714.)

5083. Rate of 13 cents per 100 pounds charged by defendants for the transportation of glass bottles in carloads from Swedesboro, N. J., to Bedford, N. Y., not shown to have been unreasonable, unjustly discriminatory, or otherwise illegal.

Standard Lumber Co. v. *Atlanta & West Point Railroad Co.* (37 I. C. C., 716.)

5084. Demurrage in the sum of $8 on a carload of lumber shipped from Noma, Fla., to West Point, Ga., not found to have been collected unlawfully. Complaint dismissed.

Oden-Elliott Lumber Co. v. *Atlanta, Birmingham & Atlantic Railroad Co.* (37 I. C. C., 717.)

5085. A carload of lumber from Lorne, Ala., to Richmond, Ky., found to have been overcharged, but the legal rate not found to have been unreasonable. Complaint dismissed.

Paducah Board of Trade v. *Illinois Central Railroad Co.* (37 I. C. C., 719.)

Upon complaint that the rates on logs and lumber to Paducah, Ky., from points in Louisiana and Arkansas are unreasonable and unjustly discriminatory as compared with the rates from the same producing territory to Cairo, Ill.;

Held:

5086. The rates to Paducah are shown to be unreasonable.

5087. The rates to Paducah are shown to be unjustly discriminatory as compared with the rates to Cairo. Defendants required to establish joint rates to Paducah via either Cairo, Ill., or Memphis, Tenn., not in excess of the rates contemporaneously maintained to Cairo. Findings in *Paducah Board of Trade* v. *I. C. C. R. R. Co.*, 29 I. C. C., 583, affirmed.

Harness to Oklahoma. (37 I. C. C., 726.)

5088. Proposed cancellation of commodity rates on harness and saddlery and saddlery hardware from Dallas, Waco, Paris, Fort Worth, Little Rock, Fort Smith, and other points in Texas and Arkansas, and from Shreveport, La., to points in Oklahoma, found to be justified, and order of suspension vacated.

5089. Harness and saddlery and saddlery hardware are less-than-carload articles of high grade, rated in the upper classes, and move almost invariably at class rates. The cancellation of the commodity rates will therefore restore as to that traffic the usual basis of charge. It will also remove the disadvantage of competing manufacturers at Kansas City and other points who pay the class rates into Oklahoma, certain of whom have complained.

Big Basin Lumber Co. v. *Southern Pacific Co.* (37 I. C. C., 730.)

5090. Allegations that defendants' rates are unreasonable for the transportation of lumber and forest products from points in California and southern Oregon to various destinations in the east, and that competitors operating in Oregon and Washington, in the "inland empire" and in Mexico are unduly preferred, not sustained. Complaint dismissed.

Class rates from Michigan and Wisconsin points. (37 I. C. C., 739.)

5091. Modification of the proposed readjustment of joint through class rates from points in Wisconsin and Michigan on or near Green Bay, Lake Michigan, to points in central freight association and eastern trunk line territories found justified to the extent outlined in the report.

Paducah Board of Trade v. *Chicago, Burlington & Quincy Railroad Co.* (37 I. C. C., 743.)

5092. The class and commodity rates from points in central freight association territory and western trunk line territory to points in western Tennessee made by combination on Paducah, Ky., are unjustly discriminatory to the extent that they exceed the rates constructed by combination on Cairo, Ill.

5093. The through rates on grain from points in central freight association territory and western trunk line territory to points in Carolina territory, southeastern territory, and Mississippi Valley territory, with the opportunity of milling in transit or handling at Paducah, are unjustly discriminatory to the extent that they exceed the through rates via Cairo with the opportunity of milling or handling in transit at that point.

5094. The evidence of record does not warrant a finding that a uniform bridge arbitrary of 1 cent per 100 pounds on all classes and commodities should be established at the Cairo and Paducah crossings. Findings in previous cases to the effect that the rates through the various crossings should be so constructed as to avoid unjust discrimination, affirmed.

Paducah Board of Trade v. *Abilene & Southern Railway Co.* (37 I. C. C., 760.)

5095. In constructing their class and commodity rates from the territory east of the Mississippi River to points in Arkansas, Oklahoma, Louisiana, and Texas the defendants have placed Paducah, Ky., in "Nashville territory" and Cairo, Ill., in "St. Louis territory," the rates from the former territory being materially higher than the rates from the latter; *Held*, That the present adjustment gives the manufacturers and jobbers located at Cairo an undue advantage over their Paducah competitors. Defendants required to establish class and commodity rates from Paducah to points in the southwest not in excess of those contemporaneously in effect from Cairo to the same points.

New Orleans-Texas rates. (38 I. C. C., 1.)

5096. Proposed increased class rates between New Orleans, La., and Orange, Beaumont, Houston, and Galveston, Tex., and commodity rates to Orange, Beaumont, and points taking the same rates, found to have been justified. Order of suspension vacated.

New Orleans Joint Traffic Bureau v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (38 I. C. C., 11.)

5097. Commodity rates maintained by defendants on numerous articles from New Orleans, La., to Orange, Beaumont, Houston, and Galveston, Tex., and points taking the same rates not found to be unreasonable or unjustly discriminatory. Complaint dismissed.

Marble from Rutland, Vt. (38 I. C. C., 12.)

5098. Proposed increased rate for the transportation of marble, sawed, hammered, chiseled, or dressed, in carloads, from Rutland, Vt., and points taking Rutland rates, to St. Paul, Minn., and points taking St. Paul rates, found justified.

5099. Proposed increased rate for like transportation of rough quarried marble found unlawful as exceeding the aggregate of intermediate rates subject to the provisions of the act.

City of Astoria v. *Spokane, Portland & Seattle Railway Co.* (38 I. C. C., 16.)

5100. Upon the facts disclosed of record, *Held*, That Seattle, Tacoma, and Astoria have a closer geographic and economic relation one to the other than is at this time reflected in the tariffs of the defendant carriers, and that their present rate adjustments unduly discriminate against Astoria and unduly prefer the Puget Sound ports.

5101. As to a portion of the so-called inland empire, the defendants are required to put Astoria on a parity of rates with Seattle, Tacoma, and Portland and to make the readjustments described in the report with respect to other portions of the territory involved.

Chelsea Refining Co v. *Missouri Pacific Railway Co.* (38 I. C. C., 28.)

5102. Charges collected for the transportation of petroleum fuel oil in carloads from Chelsea, Okla., to Mears Mine, Mo., found to have been in excess of the amount lawfully due.

Advance Bedding Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 31.)

5103. Reparation denied on shipments of cotton linters from certain points in Oklahoma and Texas to La Crosse, Wis. Complaint dismissed.

Corporation Commission of Oklahoma v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 33.)

5104. At the present time the Santa Fe, which serves with its own rails the wheat fields of Oklahoma and the port of Galveston, Tex., does not participate with its connections in through routes and joint rates on wheat moving to Louisiana ports for export. Traffic to those ports involves a haul over two or more lines. Upon the facts shown of record the Santa Fe lines are directed to establish from producing points thereon in the wheat fields of Oklahoma through routes and joint rates to New Orleans, La., that shall not exceed by more than 5 cents per 100 pounds the rates in effect at the same time from the same points of origin to Galveston, Tex.

Greenburg Iron Co. v. *Chicago & Eastern Illinois Railroad Co.* (38 I. C. C., 38.)

5105. Rates on galvanized corrugated sheet-steel culverts in carloads from Terre Haute, Ind., to Texas points not found to be unreasonable or unjustly discriminatory. Complaint dismissed.

Mitchell Coal & Coke Co. v. *Pennsylvania Railroad Co.* (38 I. C. C., 40.)

5106. The service over private tracks from the mines and coke ovens of shippers to the rails of the carrier is neither compelled nor prohibited by statute or at common law; but whichever course the carrier pursues the statutory inhibition of unjust discrimination and unreasonable preference or advantage must be observed.

5107. When the carrier employs a shipper to perform this service for it, if the compensation is excessive, the shipper obtains an unreasonable preference and advantage in violation of the regulating statute.

5108. The allowance paid by the defendant here to the competitors of the complainant was unreasonable and unlawful to the extent that it exceeded 8 cents per ton.

Dressed beef from New York. (38 I. C. C., 51.)

5109. Proposed cancellation of carload commodity rates on "dressed beef cuts" from New York, N. Y., and other Atlantic seaboard cities to St. Louis, Mo., and East St. Louis, Ill., leaving third-class rates effective in their stead, found to have been justified. Order of suspension vacated.

Texarkana Freight Bureau v. *Illinois Central Railroad Co.* (38 I. C. C., 55.)

5110. Carload rates on bananas and other tropical fruits from New Orleans, La., to Texarkana, Ark.-Tex., found unjustly discriminatory and unduly prejudicial to the extent that they exceed, by more than 10 cents per 100 pounds, the rates contemporaneously maintained from New Orleans to Shreveport. Removal of the discrimination ordered.

Boston-New York proportional rates. (38 I. C. C., 61.)

5111. Proposed cancellation of proportional and transshipment class and commodity rates between points in southeastern New England and New York, N. Y., applicable on traffic moving through the port of New York, in connection with certain steamship lines operating between New York and the Pacific coast through the Panama Canal, not justified.

Mellon refrigeration charges. (38 I. C. C., 62.)

5112. Proposed increased refrigeration charges on shipments of melons from points on the Colorado Midland Railway in western Colorado, and from what are designated as the western Colorado and Utah groups on the Denver & Rio Grande Railroad, to destinations throughout the greater part of the United States and Canada, found justified.

National Petroleum Asso. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 65.)

Upon complaint alleging that the requirement that tank cars employed in transporting inflammable liquids shall be subjected to an interior cold-water pressure test of 60 pounds per square inch is unreasonable, unnecessary, and operates to the injury of complainants; *Held:*

5113. That the primary purpose of the test, prescribed after an extended investigation, is to insure, in a measure, the strength and stability demanded of containers employed in the transportation of these inherently dangerous commodities.

5114. That the prescribed degree of the pressure test represents the best judgment of experienced tank-car builders and technical experts, and is more reliable and contributes to a greater degree of safety than would a less rigorous test.

5115. That the rule is a regulation of the use of instrumentalities of commerce employed in a dangerous service, and, being otherwise reasonable, does not, because of the fact that it entails some expense upon the owners and operators of tank cars, impose an unjust burden upon them. Complaint dismissed.

Northern Colorado Coal Co. v. *Colorado, Wyoming & Eastern Railway Co.* (38 I. C. C., 73.)

5116. The complainant alleges that the defendants' rates on soft coal from Coalmont, Colo., to points on their lines in Colorado, Wyoming, Nebraska, and Kansas are unreasonable and unjustly discriminatory as compared with the rates to the same destinations from Hanna, Wyo. It further alleges that no joint rates are published from Coalmont to stations on the lines of some of the defendants while such joint rates are published from Hanna to these stations, and that the complainant is thereby subjected to unjust discrimination; *Held,* (1) That the rates from Coalmont are not shown to be unreasonable *per se;* (2) that the rates from Coalmont are shown to be unjustly discriminatory to the extent that they exceed by more than 25 cents per net ton the rates contemporaneously maintained from Hanna; (3) that defendants should establish through routes and joint rates from Coalmont to stations on the Chicago & North Western Railway, the Colorado, Kansas & Oklahoma Railroad, the Missouri Pacific Railway, and the Chicago, St. Paul, Minneapolis & Omaha Railway.

Detroit Coal Exchange v. *Michigan Central Railroad Co.* (38 I. C. C., 79.)

Upon complaint that the rules and charges governing the weighing and reweighing of carload freight in Detroit, Mich., are unreasonable and unduly preferential; *Held:*

5117. That the Commission has jurisdiction of the weighing service, when the freight is moved in interstate commerce.

5118. That it is the duty of the delivering carrier, upon reasonable request, to reweigh carload freight which has been transported in interstate commerce.

5119. That the present charges for this service in Detroit, Mich., are unjust and unreasonable. Just and reasonable charges prescribed for the future.

5120. That the inability of carriers participating in the interstate transportation of a car to agree upon their respective assumptions of costs for reweighing when such reweighing develops a shortage in excess of the limit of tolerance, can not be used to increase charges against the shipper.

Kuehne-Chastain Commission Co. v. *Green Bay & Western Railroad Co.* (38 I. C. C., 87.)

5121. The defendants' tariffs, as herein described, interpreted as removing potatoes from the classification rating and sustaining as lawful throughout the period involved the specific commodity rate published therein.

In the matter of freight bills. (38 I. C. C., 91.)

5122. Freight bills presented to the ultimate consignees of shipments reconsigned in transit ought not to disclose the name of the original consignors; neither should they show the original point of shipment nor the route of movement to the reconsigning point except in instances where the ultimate consignee is required to pay the through charges.

Rate increases in western classification territory. (38 I. C. C., 94.)

5123. Proposed increase from 30,000 pounds to 40,000 pounds in the minimum carload weight on grain products and from 40,000 pounds to 50,000 pounds in the minimum carload weights on wheat and rye found justified.

5124. Following *1915 Western Rate Advance Case*, 35 I. C. C., 497, 603–611, proposed increased rates on bituminous coal from Illinois mines and other points to points west of the Mississippi River found justified.

5125. Cancellation of the present interstate commodity rate on gas coke in carloads from St. Charles, Mo., to St. Louis, Mo., found justified.

5126. Proposed increased rates on broom corn from points in Kansas and Oklahoma to points in Colorado and New Mexico not justified.

5127. Proposed increased rates on wheat and corn between Arkansas stations on the St. Louis & San Francisco Railroad and Memphis, Tenn., justified.

Passenger fares from Milwaukee. (38 I. C. C., 98.)

5128. Proposed cancellation of joint passenger fares from Milwaukee, Wis., to Coopersville, Nunica, and Muskegon, Mich., on the line of the Grand Rapids, Grand Haven & Muskegon Railway, found not to have been justified. Schedules under suspension ordered canceled.

Minimum weight on potatoes. (38 I. C. C., 101.)

5129. Proposed increase from 24,000 pounds to 30,000 pounds in the minimum weight from East St. Louis, Ill., to points north of the Ohio River and east of the Illinois-Indiana state line, on potatoes originating in Louisiana and Texas, not justified, the commodity not safely loading in excess of 24,000 pounds per standard car. Schedules under suspension ordered canceled.

Matches from Duluth. (38 I. C. C., 103.)

5130. Schedules providing for the cancellation of commodity rates on matches in carloads from Duluth, Minn., to various points in Arkansas found not justified and required to be canceled.

Anson, Gilkey & Hurd Co. v. *Southern Pacific Co.* (38 I. C. C., 105.)

5131. Defendants directed to put into effect tariffs which will remove the unjust discrimination found to exist at Chicago.

National Rolling Mill Co. v. *Chicago & Eastern Illinois Railroad Co.* (38 I. C. C., 108.)

5132. Rate of 22 cents per 100 pounds on bar iron in carloads from Vincennes, Ind., to Hopkinsville, Ky., not found to have been unreasonable. Complaint dismissed.

5133. Authority granted to applicant Illinois Central Railroad Co. to charge a lower rate for the transportation of bar iron from Evansville, Ind., when from beyond, to Nashville, Tenn., than the rates concurrently in effect on like traffic to Hopkinsville and other intermediate points granted. Maximum rates to apply at intermediate points prescribed for the future.

Lippard-Stewart Motor Car Co. v. *Michigan Central Railroad Co.* (38 I. C. C., 112.)

5134. Carrier furnished two shorter cars in lieu of 50-foot car ordered, for the transportation of three motor delivery vehicles; *Held*, That the charges collected were unreasonable to the extent that they exceeded the charges that would have accrued if a car of the dimension ordered had been furnished. Case held open for further proof as to reparation.

Fish & Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 115.)

5135. Charges collected for the transportation of cantaloupes in carloads from Swink, Colo., to Chicago, Ill., based on estimated weights, not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Hettler Lumber Co. v. *Alabama & Vicksburg Railway Co.* (38 I. C. C., 117.)

5136. Charges collected for the transportation of a carload of lumber from Meehan Junction, Miss., to Chicago, Ill., not shown to have been unreasonable. Complaint dismissed.

Zimmerman v. *Chicago, Rock Island & Pacific Railway Co.* (38 I. C. C., 118.)

5137. Charges for the transportation of six carloads of cattle from North Fort Worth, Tex., to Big Horn Wye (Hardin), Mont., branded at Clearmont, Wyo., not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Official classification rates on paper. (38 I. C. C., 120.)

5138. Proposed increased rates on printing paper, wrapping paper, blotting paper, cardboard, tag board, paper bags, and blank register paper in official classification territory, equivalent to the sixth-class rates, found to be reasonable, but certain proposed departures from the sixth-class basis disapproved.

5139. Proposed increase from 18.9 cents to 21 cents per 100 pounds in the blanket rate on news print paper from New England and northern New York to points in central freight association territory not justified, but rate of 20 cents per 100 pounds found to be reasonable. Proposed increased rates on the same commodity from Alexandria, Ind., and Cheboygan, Mich., to eastern points found not to have been justified.

5140. Proposed increased rates on strawboard, paper boards, and building and roofing paper found not to have been justified.

5141. Proposed increased rates on blank wall paper not found to be reasonable, but respondents permitted to increase the rates on that commodity to the same basis as that approved herein on news print paper.

5142. Complaint alleging that rates on paper from mills in Wisconsin to points in central freight association territory and other points are unreasonable and unjustly discriminatory dismissed.

5143. Rates on paper from New England not shown to be unreasonable. Cause of complaint as to the discriminatory character of the rates and descriptions published by the New England lines apparently removed by suspended tariffs. Reparation denied and complaint dismissed.

Cantine Co. v. *Cincinnati, Hamilton & Dayton Railway Co.* (38 I. C. C., 151.)

5144. Upon complaint that the rates on surface-coated printing paper from Saugerties, in the state of New York, to points in official classification territory are unreasonable and unjustly discriminatory; *Held*, That the general application of sixth-class rates on printing paper as proposed by the respondents in *Official Classification Rates on Paper*, 38 I. C. C., 120, fairly meets the issues here presented. Reparation on past shipments denied for reasons stated in the Commission's report in that case.

Through rates to points in Louisiana and Texas. (38 I. C. C., 153.)

5155. Rates applying on through traffic from interstate points to points in Louisiana and Texas are in many instances in excess of the aggregation of the intermediate rates in contravention of the fourth section of the act to regulate commerce; *Held*, That sufficient justification has not been shown for continuing through rates that exceed the aggregates of the intermediate rates. Fourth-section relief denied.

Andrews Bros. Co. v. *Pennsylvania Railroad Co.* (38 I. C. C., 165.)

5156. Upon showing that the Pennsylvania Railroad Co. grants to but one concern the right to auction off consignments of fruit in the carrier's produce yards at Pittsburgh; *Held*, That this practice *per se* does not accord undue or

unreasonable preference or advantage, but should hereafter be policed by requiring the concessionaire to publish the rules governing said auction. Complaint dismissed.

Divisions of joint rates applicable to railway fuel coal. (38 I. C. C., 169.)

5157. Carriers using fuel other than coal required to file their divisions of joint rates on such fuel in the transportation of which they participate and are required, when changes are made in such divisions, to file a statement of facts relied upon as justification for such changes. A supplemental general order will issue under the provisions of section 6.

5158. Inquiries concerning certain features of the order in this proceeding with respect to which carriers are in doubt answered.

Mission Brewing Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 171.)

5159. Rates on beer in carloads from San Diego, Cal., to points on the Atchison, Topeka & Santa Fe Railway in Arizona and New Mexico not shown to be unreasonable or unjustly discriminatory.

5160. Joint through rates from San Diego to points on the line of the Southern Pacific Co. and its connections in Arizona and New Mexico, and to El Paso, Tex., should be established and parties should agree upon specific rates.

South Canon Coal Co. v. *Colorado Midland Railway Co.* (38 I. C. C., 174.)

5161. Rates on bituminous coal in carloads from South Canon, Colo., to destinations in Wyoming, South Dakota, Nebraska, and Kansas, found to be unjustly discriminatory in so far as they exceed the rates from Walsenburg, Colo., to the same destinations by more than 25 cents per net ton. The rates from Cameo, Colo., not shown to be unjustly discriminatory.

Cast-iron pipe from North Carolina points. (38 I. C. C., 183.)

5162. Proposed increased rate on cast-iron pipe in carloads from Charlotte, N. C., to Pacific coast terminals found not justified, but respondents authorized to establish a rate which shall not exceed that from Chattanooga, Tenn., or Birmingham, Ala., by more than 5 cents per 100 pounds.

Lindsay & Co. v. *Northern Pacific Railway Co.* (38 I. C. C., 187.)

5163. Charges collected for the transportation of grapefruit in straight carloads and in carloads mixed with oranges from Jacksonville, Fla., to Helena, Great Falls, Billings, and Butte, Mont., found unreasonable. Reparation awarded.

Royster Guano Co. v. *Atlantic Coast Line Railroad Co.* (38 I. C. C., 190.)

5164. Upon complaint alleging that rates on commercial fertilizer in carloads from Norfolk to destinations in North Carolina are unreasonable *per se*, and also subject complainant, its traffic, and the city of Norfolk to undue prejudice and disadvantage as compared with competitors operating in North Carolina; *Held*, That defendants should establish the mileage rates prescribed herein as maxima and remove the undue and unreasonable prejudice and disadvantage found to exist.

Hides to Boston, Mass. (38 I. C. C., 194.)

5165. Proposed increased carload rate for the transportation of green salted hides from St. Paul, Minneapolis, and Minnesota Transfer, Minn., to Boston, Mass., and Boston rate points, via Sault Ste. Marie, Mich., not justified, and required to be canceled.

Central freight association sand and gravel rates. (38 I. C. C., 196.)

5166. Proposed increased rates on sand and gravel from Lake Erie ports to various points in central freight association territory not justified. Proposed increased rates on the same commodities from Tecumseh, Mich., to certain points in Ohio on the Detroit, Toledo & Ironton Railroad justified.

Classification of cylinders. (38 I. C. C., 198.)

5167. Proposed change in southern classification rating of returned empty coppered or nickeled cylinders, described in the item under suspension, from sixth class to fifth class not justified, and item ordered canceled.

Lake and rail rate cancellations. (38 I. C. C., 201.)

5168. Proposed cancellation by certain of the respondent rail lines of joint rates in connection with the Port Huron & Duluth Steamship Co. between

points in trunk line territory and Duluth, Minn., and points south and west thereof, not justified.

Adams Stave Co. v. *Texas, Oklahoma & Eastern Railroad Co.* (38 I. C. C., 203.)

5169. Rates charged for the transportation of gum and oak staves from Broken Bow, Okla., to Fresno and San Francisco., Cal., found unreasonable to the extent that they exceeded the rates contemporaneously applicable from Valliant, Okla. Rates charged from Broken Bow to various other points in the United States found unreasonable to the extent that they exceeded by more than 2 cents per 100 pounds the rates contemporaneously applicable from Valliant to the same destinations. Reparation awarded.

Dodson & Co. v. *Central Railroad Co. of N. J.* (38 I. C. C., 206.)

5170. Reparation awarded on account of unreasonable rates charged for the transportation of anthracite coal from Beaver Brook colliery and Coleraine colliery, in the Lehigh anthracite coal region in Pennsylvania, to Elizabethport, N. J., for transshipment.

Merchants Produce Co. v. *Oregon-Washington Railroad & Navigation Co.* (38 I. C. C., 209.)

5171. Reparation awarded on account of unreasonable charges collected for the transportation of a carload of cabbage from Placentia, Cal., a carload of cabbage from Colma, Cal., and a carload of melons from Monson, Cal., to Spokane, Wash.

Gilman & Co. v. *Maine Central Railroad Co.* (38 I. C. C., 213.)

5172. Reparation awarded on account of charges found to have been collected in excess of tariff rate legally applicable for the transportation of certain carloads of news print paper and of wrapping paper from Woodland, Me., to Pier 50, New York, N. Y.

Collins v. *Chicago, Burlington & Quincy Railroad Co.* (38 I. C. C., 216.)

5173. Chicago, Burlington & Quincy Railroad Co. found to have misrouted two carloads of peaches transported from Craft and Henderson, Tex., to Holdrege, Nebr. Reparation awarded.

Rickards v. *Seaboard Air Line Railway.* (38 I. C. C., 218.)

5174. Rates for the transportation of mine-prop logs in carloads from Thelma and Vaughan, N. C., to Portsmouth, Va., found to have been unreasonable and unjustly discriminatory. Reasonable and nondiscriminatory rates prescribed for the future.

Mutual Oil Co. v. *Chicago, Burlington & Quincy Railroad Co.* (38 I. C. C., 221.)

5175. Rates for the transportation of petroleum and certain of its products in carloads from Cowley, Wyo., to Highwood and Coffee Creek, Mont., found to have been unreasonable. Reasonable rates prescribed for the future and reparation awarded.

Miller Elevator Co. v. *Fairmount & Veblen Railway Co.* (38 I. C. C., 224.)

5176. Charges collected for the transportation of seven carloads of grain from Rosholt, S. Dak., to Duluth, Minn., in September and October, 1913, not shown to have been unreasonable. Complaint dismissed.

Frank W. Hunt & Co. v. *A. H. Bull Steamship Co.* (38 I. C. C., 226.)

5177. Reparation awarded on account of the exaction of a combination rate on certain shipments of dry hides by water and rail from New York, N. Y., to Island Falls, Me., in October, 1913, found to have been unreasonable and excessive.

Decker & Sons v. *Minneapolis & St. Louis Railroad Co.* (38 I. C. C., 228.)

5178. Rates charged for the transportation of packing-house products and fresh meats in straight carloads from Mason City, Iowa, to Arkansas and Texas points not found to be unreasonable or unjustly discriminatory.

5179. The rates to Louisiana points found unjustly discriminatory to the extent that they exceed the rates from Chicago and grouped points by more than 2½ cents per 100 pounds on packing-house products and 5 cents per 100 pounds on fresh meats. Reparation denied.

Crown-Columbia Paper Co. v. *Oregon-Washington Railroad & Navigation Co.* (38 I. C. C., 231.)

5180. Charges collected by defendant for loading into cars at Portland, Oreg., certain carload shipments of paper delivered by the Western Transportation & Towing Co. and Willamette Navigation Co. for transportation to Seattle and Tacoma, Wash, found to have been unreasonable. Reparation awarded.

Jackson Chamber of Commerce v. *Philadelphia & Reading Railway Co.* (38 I. C. C., 233.)

5181. Complaint that the classification by defendants of bar steel in carloads in the official classification is unreasonable and that rates for transportation of that commodity from Pittsburgh and points taking the same rate from Nicetown, Steelton, and Reading, Pa., and Youngstown, Ohio, to Jackson, Mich., are unreasonable and unjustly discriminatory not sustained.

Iron and steel articles. (38 I. C. C., 237.)

5182. Carriers authorized to establish rate of 65 cents per 100 pounds from Pittsburgh territory to Pacific coast ports on all iron and steel articles now taking rates from Chicago to said ports of 55 cents per 100 pounds.

Swift & Co. v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (38 I. C. C., 242.)

5183. Rates for the transportation of rock salt in carloads from Louisiana points to Fort Worth and North Fort Worth, Tex., found to be unreasonable. Reasonable maximum rates prescribed for the future and reparation awarded.

Peters Mill Co. v. *Chicago, Burlington & Quincy Railroad Co.* (38 I. C. C., 245.)

5184. Upon a complaint and answer seeking a tariff construction sanctioning the retroactive application of a mixed feed transit arrangement of the Chicago, Burlington & Quincy Railroad Co. at Omaha, Nebr.; *Held*, That the complaint must be dismissed.

5185. Transit rules should be clear and free from ambiguity and must be enforced according to their terms; and no agreement between the shipper and the carrier assigning another meaning to them may lawfully be substituted.

Fire brick to Louisiana points. (38 I. C. C., 249.)

5186. Proposed increased rates on fire brick in carloads from Malvern and Perla, Ark., to Louisiana points not justified.

Fruits and vegetables from Norfolk, Va. (38 I. C. C., 252.)

5187. Proposed increased rates for the transportation of fruits, vegetables, and strawberries, any quantity, from St. Julian avenue station, Norfolk, Va., to New York, N. Y., not justified.

Minimum charges on articles too long or too bulky to be loaded through the side door of cars. (38 I. C. C., 257.)

5188. Upon further consideration, exception is here ordered to the uniform minimum charge rule applicable to long or bulky articles prescribed in the original report herein when shipments contain articles over 22 feet long and not exceeding 12 inches in diameter and other dimension.

Lucey Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 264.)

5189. Reparation awarded on account of overcharges on shipments of wrought-iron pipe in carloads from Wheeling, W. Va., to Wasco, Cal., and points on the Sunset Railway in California.

Bonners Ferry Lumber Co. v. *Great Northern Railway Co.* (38 I. C. C., 268.)

5190. Rates charged for the transportation of lumber in carloads from Bonners Ferry, Idaho, to points on defendant's line in Montana east of Dunkirk and south of Naismith, found unjustly discriminatory as compared with rates from Libby and Eureka, Mont., to the same points of destination, and a proper relationship of rates prescribed for the future.

5191. Rates charged for the transportation of lumber in carloads from Bonners Ferry, Idaho, to points in North Dakota and Minnesota found unreasonable and unjustly discriminatory as compared with rates from western Montana lumber-producing points to the same destinations, and reasonable nondiscriminatory rates prescribed for the future.

Curtis & Gartside Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 276.)

5192. Complaint in this case controlled by *Oklahoma Traffic Asso.* v. *A. & S. Ry. Co.*, 36 I. C. C., 329. Complaint dismissed.

Lamb-Fish Lumber Co. v. *Yazoo & Mississippi Valley Railroad Co.* (38 I. C. C., 278.)

5193. Defendants' rates for the transportation of lumber in carloads from Charleston, Miss., to Mobile, Ala., and Pensacola, Fla., for export, not found to be unreasonable or unjustly discriminatory. Complaint dismissed without prejudice.

City of Steubenville v. *Tri-State Railway & Electric Co.* (38 I. C. C., 281.)

5194. Commutation passenger fare of $8 for 100 rides between Steubenville, Ohio, and Follansbee, W. Va., found unjust and unreasonable, and a maximum fare of $3.70 for 52 rides prescribed for the future.

Weinstock-Nichols Co. v. *Cleveland, Cincinnati, Chicago & St. Louis Railway Co.* (38 I. C. C., 288.)

5195. Present rating and rates applied by defendants for the transportation of carburetors in less than carloads from Chicago, Ill., and Indianapolis, Ind., to San Francisco and Los Angeles, Cal., Portland, Oreg., and Seattle, Wash., found to be unreasonable.

Pillsbury Flour Mills Co. v. *Chicago, Rock Island & Pacific Railway Co.* (38 I. C. C., 290.)

5196. Rate of 35 cents per 100 pounds, minimum 40,000 pounds, charged for the transportation of one car of flour Minneapolis, Minn., to Alexandria, La., found to have been unreasonable. Reparation awarded.

Moreland Motor Truck Co. v. *San Pedro, Los Angeles & Salt Lake Railroad. Co.* (38 I. C. C., 292.)

5197. Rate established by defendants for the transportation of wooden motor truck wheels, without hubs, in carloads, from Newark, N. J., and Jackson and Lansing, Mich., to Los Angeles, Cal., found to have been unreasonable to the extent that it exceeded the rate contemporaneously applicable to wagon wheels in the white, ironed or not ironed, which rate is prescribed as maximum for the future, subject to a minimum weight of 30,000 pounds.

Johnson v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 294.)

5198. Defendant's rule under which tickets for transportation on the "California Limited" train from Chicago, Ill., to Albuquerque, N. Mex., were not honored, and the assessment of charges for transportation on this train from Chicago to Albuquerque on the basis of the fare from Chicago to Williams, Ariz., the first point west of Albuquerque to which tickets were honored on this train, not found to have been unjustly discriminatory. Complaint dismissed.

McCaull-Dinsmore Co. v. *Great Northern Railway Co.* (38 I. C. C., 297.)

5199. Charges collected for the transportation of a carload of shelled corn from Sioux Center, Iowa, to St. Joseph, Mo., found not illegal. Complaint dismissed.

5200. That portion of Fourth Section Application No. 296, filed by the Chicago, Burlington & Quincy Railroad Co., which asks authority to continue rates on shelled corn from St. Paul, Minn., to St. Joseph, Mo., lower than rates contemporaneously maintained from Sioux Center and other intermediate points denied.

Sheets v. *Louisville & Nashville Railroad Co.* (38 I. C. C., 299.)

5201. Rate charged by defendant for the transportation of logs in carloads from Ansley, Lake Shore, and Waveland, Miss., to New Orleans, La., found to have been unreasonable to the extent that it exceeded the rate contemporaneously maintained on piles and telephone poles. Reparation awarded.

Standard Lumber Co. v. *South Georgia Railway Co.* (38 I. C. C., 301.)

5202. Carload rate of 15.2 cents per 100 pounds on lumber from Baden, Ga., to Columbia, S. C., found to have been unreasonable to the extent that it exceeded the aggregate of intermediate rates based on Savannah, Ga.

5203. Carload rate of 20 cents per 100 pounds on lumber from Shore, Ga., to Anderson, S. C., found to have been unreasonable to the extent that it exceeded the aggregate of intermediate rates based on Augusta, Ga.

5204. Depression of an intermediate rate by rail competition does not justify a joint rate in excess of the aggregate of the intermediate rates.
5205. Reparation awarded.

Oden-Elliott Lumber Co. v. *Southern Railway Co.* (38 I. C. C., 304.)

5206. Carload shipments of lumber from Sanford and River Falls, Ala., to Knoxville, Tenn., found not to have been misrouted and the rates applicable over the routes of movement not found unreasonable. Complaint dismissed.

McCaull-Dinsmore Co. v. *Northern Pacific Railway Co.* (38 I. C. C., 305.)

5207. Rate charged for the transportation of a carload of wheat from Hardin, Mont., to Minneapolis, Minn., found unreasonable. Reparation awarded.

Kornfalfa Feed Milling Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 307.)

5208. Rate of 25 cents per 100 pounds charged for the transportation of certain carload shipments of refuse sirup, in tank cars, from various points in Colorado and Nebraska to Kansas City, Mo., not found to have been unreasonable.
5209. Provision of the Chicago, Burlington & Quincy Railroad's tariff according a transit arrangement at Omaha and refusing a similar arrangement at Kansas City found to have been unjustly discriminatory. Reparation denied because damage is not proven.

Bennett & Son v. *Chesapeake & Ohio Railway Co.* (38 I. C. C., 310.)

5210. Rates for the transportation of bituminous coal in carloads from the Kanawha and New River districts in West Virginia to Culpeper and Manassas, Va., not found unreasonable, and the complaint dismissed.
5211. The inhibition of the long-and-short-haul clause of the fourth section is not restricted to movements over the line of a single carrier, but extends to transportation over routes in which one or more carriers participate.
5212. The defendants' fourth section applications which seek authority to continue lower rates on coal from the Kanawha and New River districts to Alexandria, Va., and Washington, D. C., than to Culpeper and Manassas, Va., granted in part.

Westport Stone Co. and Big Four Stone Co. Cases. (38 I. C. C., 316.)

5213. No obligation shown to rest upon the Cleveland, Cincinnati, Chicago & St. Louis Railway to switch cars beyond the junction points of the tracks of the respective stone companies and the spurs maintained by the railroad.

Commercial Exchange of Philadelphia v. *Pennsylvania Railroad Co.* (38 I. C. C., 320.)

5214. Defendants' rule limiting free storage time at Philadelphia, Pa., to two days held to have been justified and not found to be unjustly discriminatory.
5215. Defendants required to amend their storage rules to provide for free storage time on account of bunching of cars by carriers.

Baltimore Chamber of Commerce v. *Baltimore & Ohio Railroad Co.* (38 I. C. C., 326.)

5216. Following *Commercial Exchange of Philadelphia* v. *P. R. R. Co.*, 38 I. C. C., 320, reduction from four days to two days in the period of free storage in warehouses on carload shipments of flour, feed, hay, and straw received at Baltimore, Md., found to have been justified.
5217. Although not put in issue by the complaint, conditions are shown to be substantially the same as at Philadelphia, and indicate the propriety of a provision in storage rules for the bunching of cars.

Flue lining minimum weight. (38 I. C. C., 328.)

5218. Proposed increase from 35,000 pounds to 50,000 pounds in the minimum carload weight for flue lining shipped from central freight association territory to interstate destinations, found not to be justified.

Caddo River Lumber Co. v. *Caddo & Choctaw Railroad.* (38 I. C. C., 330.)

5219. On rehearing and further consideration, reparation awarded on account of unreasonable rates charged for the transportation of certain carloads of lumber from points in Arkansas, Louisiana, and Texas to points in western Nebraska and Kansas.

Federal Glass Co. v. *Chicago, Rock Island & Pacific Railway Co.* (38 I. C. C., 331.)

5220. Denial of reparation on account of rates found unreasonable reversed on rehearing and reparation awarded on proof of damage to complainants.

Meeker & Co. v. *Central Railroad Co. of N. J.* (38 I. C. C., 333.)

The complaint alleges that the rates applicable on anthracite coal in carloads from Mocanaqua, Pa., and other points in the Wyoming coal region of Pennsylvania to Elizabethport, N. J., f. o. b. vessels for reshipment, are unreasonable; *Held:*

5221. That reasonable maximum rates for the future have been prescribed in *Rates for Transportation of Anthracite Coal*, 35 I. C. C., 220.

5222. That the question of reparation be held in abeyance for determination in a supplemental proceeding.

Osceola Mill & Elevator Co. v. *Minneapolis, St. Paul & Sault Ste. Marie Railway Co.* (38 I. C. C., 335.)

5223. Charge of $5 in addition to freight charges assessed by each of defendants for the transportation of a mixed carload of oats and speltz separated by bulkhead, from Heaton, N. Dak., to Minneapolis, Minn., and reconsigned to Osceola, Wis., found to be in accordance with tariff provisions applicable and not found unreasonable. Complaint dismissed.

Reiss Coal Co. v. *Ann Arbor Railroad Co.* (38 I. C. C., 337.)

5224. Demurrage charges, due to inadvertent cancellation of free-time provision, collected on coal in carloads held for reconsignment at Frankfort, Mich., found to have been unreasonable and reparation awarded.

Duluth Log Co. v. *Minneapolis, St. Paul & Sault Ste. Marie Railway Co.* (38 I. C. C., 338.)

5225. Rate applicable to the transportation of a carload of posts from Remer, Minn., to Benld, Ill., not shown to have been unreasonable. Complaint dismissed.

Phillips Coal Co. v. *San Antonio & Aransas Pass Railway Co.* (38 I. C. C., 340.)

5226. Complaint asking reparation on a motorcycle shipped from Corpus Christi, Tex., to Ottumwa, Iowa, dismissed for want of sufficient evidence.

Texarkana Pipe Works v. *Beaumont, Sour Lake & Western Railway Co.* (38 I. C. C., 341.)

5227. A carload of sewer pipe was forwarded by the initial carrier from Texarkana, Tex., to Brownsville, Tex., over an interstate route by which the rate was higher than by an intrastate route: *Held*, That the shipment was misrouted and that complainant is entitled to reparation on the basis of the rate contemporaneously in effect over the intrastate route.

Johnston & Sharpe Manufacturing Co. v. *Chicago, Rock Island & Pacific Railway Co.* (38 I. C. C., 343.)

5228. Following *Western Classification No. 51*, 25 I. C. C., 442, 541, first-class rating applied by defendants to the transportation of less-than-carload shipments of mousetraps from Ottumwa, Iowa, to St. Joseph, Mo., and Atchison, Kans., not found unreasonable. Complaint dismissed.

Metropolitan Paving Brick Co. v. *Wheeling & Lake Erie Railroad Co.* (38 I. C. C., 345.)

5229. Certain shipments of brick from Canton, Ohio, to Long Branch, N. J., found not to have been misrouted and rate assessed not found unreasonable. Complaint dismissed.

Berry Coal & Coke Co. v. *Chicago & North Western Railway Co.* (38 I. C. C., 347.)

5230. Rate charged for the transportation of a carload of blacksmith coal from Chicago, Ill., to Twin Falls, Idaho, not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Levering Bros. v. *Philadelphia, Baltimore & Washington Railroad Co.* (38 I. C. C., 349.)

5231. Charges assessed by the delivering carrier for the storage of two carloads of scrap tin at Elizabethport, N. J., not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Omaha Alfalfa Milling Co. v. *Union Pacific Railroad Co.* (38 I. C. C., 351.)

5232. Rate of 14 cents per 100 pounds charged for the interstate transportation of carloads of alfalfa meal from Kearney, Nebr., to East Omaha, Nebr., found unjustly discriminatory, but as there is no proof of damage, complaint is dismissed.

National Clay Works v. *Minneapolis & St. Louis Railroad Co.* (38 I. C. C., 353.)

5233. Demurrage charges at Mason City, Iowa, on 13 carloads of coal shipped from Panama and Harrisburg, Ill., found to have been assessed unlawfully. Reparation awarded.

Coffeyville Vitrified Brick & Tile Co. v. *St. Louis & San Francisco Railroad Co.* (38 I. C. C., 355.)

5234. Rate of 11 cents per 100 pounds charged for the transportation of paving bricks in carloads from Boynton, Okla., to Denison, Paris, and Dallas, Tex., found to have been unreasonable to the extent that it exceeded 6 cents per 100 pounds to Denison, 8 cents per 100 pounds to Paris, and 7½ cents per 100 pounds to Dallas. Reparation awarded.

Bedna Young Lumber Co. v. *Illinois Central Railroad Co.* (38 I. C. C., 357.)

5235. Carload shipment of oak lumber from Jackson, Tenn., to Preston, Ontario, found to have been misrouted. Reparation awarded.

Wilhoit Refining Co. v. *Missouri, Kansas & Texas Railway Co.* (38 I. C. C., 358.)

5236. Rate of 13 cents per 100 pounds charged for the transportation of crude petroleum oil in carloads from Cushing, Okla., to Joplin, Mo., found to have been unreasonable and unjustly discriminatory to the extent that it exceeded 10 cents per 100 pounds. Reparation awarded.

Prendergast Co. v. *Alabama Great Southern Railroad Co.* (38 I. C. C., 361.)

5237. Rate charged for the transportation of a carload of yellow-pine lumber from Akron, Ala., to Richelieu, Quebec, not shown to have been unreasonable or unjustly discriminatory, and complaint dismissed.

Drake Marble & Tile Co. v. *Chicago, St. Paul, Minneapolis & Omaha Railway Co.* (38 I. C. C., 363.)

5238. A less-than-carload shipment of floor and wall tile from Indianapolis, Ind., to Belle Plaine, Minn., found to have been overcharged and misrouted. Reparation awarded.

Picher Lead Co. v. *Missouri Pacific Railway Co.* (38 I. C. C., 365.)

5239. Rate of 21 cents per 100 pounds charged for the transportation of fire-clay retorts in carloads from Altoona, Kans., to Joplin, Mo., found to have been unreasonable to the extent that it exceeded 8 cents per 100 pounds. Reparation awarded.

Grain to California points. (38 I. C. C., 367.)

5240. Proposed changes in the rules relating to the routing and diversion of grain and grain products in carloads from points of origin in Idaho and Utah to Los Angeles, Cal., on the tracks of the Atchison, Topeka & Santa Fe Railway, found justified. Order of suspension vacated.

Lumber between points in Western Trunk Line territory. (38 I. C. C., 370.)

5241. Proposed increased rate of 12 cents on lumber and lumber products from St. Paul, Minneapolis, Duluth, Minnesota Transfer, and Stillwater, Minn., and Ashland, Wis., and points taking same rates, to Chicago and Chicago rate points justified. Formal complaint dismissed.

Cottonseed products to Port Arthur, Tex. (38 I. C. C., 378.)

5242. The Texarkana & Fort Smith Railway Co. and the Kansas City Southern Railway Co. published an item in a schedule naming increased rates on cottonseed cake and meal from Texas points to Port Arthur, Tex., for interstate and foreign application, to the effect that the increased rates would not apply via their lines, although for many years these carriers had been participants in the canceled rates from Texas points; *Held*, That their refusal to participate in the rates has not been justified.

5243. Upon complaint that the increased rates on cottonseed cake and meal from points in the state of Texas to Port Arthur, Tex., for export are unreasonable and unjustly discriminatory; *Held*, That the defendants have failed to sustain the burden of proof by showing that the increased rates are justified.

Stone from Illinois points. (38 I. C. C., 389.)

5244. Proposed increased carload rates on crushed stone and related articles from Kankakee, Lehigh, and West Kankakee, Ill., to grouped points in Illinois and Indiana found to have been justified in part only. Order of suspension vacated in so far as the more distant stations are concerned; and lower rates than those proposed found reasonable to the less distant stations.

Oklahoma Traffic Asso. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 392.)

5245. Rates charged for the transportation of soda ash in carloads from Hutchinson, Kans., and soda ash, caustic soda, and silicate of soda in carloads, from St. Louis, Mo., and certain points east of the Mississippi River to Oklahoma City, Okla., found unreasonable and reasonable rates prescribed for the future. Reparation awarded.

5246. Defendants required to provide for the transportation of mixed carloads of soda ash and caustic soda at the highest rate and minimum applicable to either commodity.

Pioneer Lumber Co. v. *Northern Pacific Railway Co.* (38 I. C. C., 399.)

5247. Portion of defendants' tariff provision resulting in the application of the rate applicable to the highest rated commodity in carload shipments of fir lumber, mixed with kiln-dried cedar siding, or mixed with kiln-dried cedar siding and cedar shingles, from Issaquah and Van Zandt, Wash., to South Utica, N. Y., Winner, S. Dak., and Minnesota Transfer, Minn., when the actual weight of the cedar siding is not certified to by the shipper on the shipping receipt, found to be unreasonable. Defendants required so to amend their tariff as to permit the application of the carload rate on the cedar siding at an estimated weight of 700 pounds per 1,000 feet when actual weight thereof is not obtainable, but when the amount thereof in feet is stated on the bill of lading.

West Lumber Co. v. *St. Louis & San Francisco Railroad Co.* (38 I. C. C., 401.)

5248. Rates charged by defendants for the transportation of coal in carloads from Bonanza, Huntington, Hackett, and Hoffman, Ark., to Onalaska, Tex., found to have been unreasonable and unjustly discriminatory. Reparation awarded.

Ocean-and-rail rates to Charlotte. (38 I. C. C., 405.)

5249. Proposed cancellation of ocean-and-rail class and commodity rates from eastern seaboard territory and interior eastern points to Charlotte, N. C., through the port of Charleston, S. C., found justified.

Class and commodity rates between St. Louis and East St. Louis and Ohio River points. (38 I. C. C., 411.)

The class and commodity rates of carriers operating both north and south of the Ohio River in the territory lying between St. Louis, Mo., and East St. Louis, Ill., on the one hand, and Ohio River points on the other, and between the various Ohio River points themselves, are in many instances in contravention of the long-and-short-haul rule of the fourth section of the act; these carriers ask to be allowed to continue these rates between the river points, which are lower than rates at intermediate points. Upon the facts disclosed by the record; *Held*, That—

5250. Water competition justifies departures from the long-and-short-haul rule of the fourth section in rates between points on the Ohio and Mississippi rivers, and relief should be granted to the extent prescribed in the report.

5251. Authority to continue to charge class and commodity rates between the same points via Chicago and Chicago junctions lower than rates contemporaneously applicable on the like traffic to intermediate points denied.

5252. Authority to continue class and commodity rates between the same points via the route of the Louisville & Nashville Railroad through Guthrie lower than rates contemporaneously applicable on like traffic to intermediate points denied.

Vandenboom-Stimson Lumber Co. v. *St. Louis, Iron Mountain & Southern Railway Co.* (38 I. C. C., 432.)

5253. Rates charged by defendants for the transportation of hardwood logs and bolts in carloads from points in Arkansas, Louisiana, and Oklahoma to Memphis, Tenn., found unreasonable and unduly prejudicial. Scale of reasonable maximum rates prescribed. Reparation awarded.

Hires Condensed Milk Co. v. *Pennsylvania Railroad Co.* (38 I. C. C., 441.)

5254. Less-than-carload and carload rates applicable under official classification on condensed and evaporated milk (liquid), in cans, boxed, held unreasonable and rates no higher than rule 26, less than carload; and fifth class with 36,000-pound minimum, carload, prescribed for the future. Reparation awarded on less-than-carload shipments.

La Crosse Shippers' Asso. v. *Chicago & North Western Railway Co.* (38 I. C. C., 453.)

Upon complaint that the interstate class rates from La Crosse, Wis., to points in the southern half of Minnesota are unreasonable and unduly discriminatory, *Held:*

5255. Such of the rates complained of as have been increased since January 1, 1910, justified.

5256. Rates complained of which have not been increased since January 1, 1910, not shown to be unreasonable.

5257. The record shows no sufficient reason for the establishment of proportional rates from La Crosse to St. Paul, Minneapolis, or Minnesota Transfer, Minn.

5258. Record not sufficient for final determination upon the issue of unjust discrimination, but held open to permit subsequent hearing thereon.

J. W. Wells Lumber Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (38 I. C. C., 464.)

5259. Complainant seeks reparation because it was required to pay what is alleged to be an unreasonable and unjustly discriminatory rate for shipments of logs from points on the Superior division of the defendant to Menominee, Mich.; *Held,* That the evidence fails to show that the rates charged were unreasonable or that complainant was damaged by reason of the alleged discrimination. Complaint dismissed.

Scott v. *Cape Charles Railroad Co.* (38 I. C. C., 467.)

5260. Rates on potatoes in carloads from points in Virginia on the Cape Charles Railroad to Philadelphia, Pa., and New York, N. Y., shown to be unreasonable and unjustly discriminatory to the extent that they exceed the rates contemporaneously in effect from Cape Charles, Va., by more than 4 cents per standard barrel. Reparation denied.

Consolidated Fuel Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 474.)

5261. Defendants' rates for the transportation of soft coal in carloads from Mohrland and Haiwatha, Utah, to California points on the Atchison, Topeka & Santa Fe's branch line from Los Angeles, Cal., to National City, Cal., found to be unreasonable; a maximum joint through rate of $6.65 per net ton prescribed.

Meridian Grain & Elevator Co. v. *Alabama & Vicksburg Railway Co.* (38 I. C. C., 478.)

5262. Refusal of defendants to establish and maintain transit arrangements at Meridian, Miss., on cottonseed cake and meal shipped to that point from points in various states, there to be ground, graded, and sacked and shipped to various interstate destinations not found unjustly discriminatory or otherwise in violation of the act. Complaint dismissed.

Hoops from Chaffee. (38 I. C. C., 482.)

5263. Proposed increased rate on coiled elm hoops from Chaffee, Mo., to Thebes, Ill., found not justified and schedules under suspension ordered canceled.

Stone Producers Sales Co. v. *Chicago, Indianapolis & Louisville Railway Co.* (38 I. C. C., 485.)

5264. Charges collected for the transportation of building stone in carloads from Bedford, Ind., to Muskogee, Okla., not shown to have been unreasonable or otherwise in violation of the act. Complaint dismissed.

M. Longo Fruit Co. v. *Illinois Traction System.* (38 I. C. C., 487.)

5265. Defendants' rules and practices concerning the transportation of less-than-carload shipments of perishable commodities from St. Louis, Mo., and East St. Louis, Ill., to contiguous territory not found to be unreasonable or unjustly discriminatory.

Meeds Lumber Co. v. *Fernwood & Gulf Railroad Co.* (38 I. C. C., 490.)

5266. Claim for reparation on certain carload shipments of lumber from Knoxo, Miss., to Chicago, Ill., found to have been abandoned and complaint dismissed.

Sheboygan Mineral Water Co. v. *Chicago & North Western Railway Co.* (38 I. C. C., 491.)

5267. Charges assessed by defendants for the transportation of a mixed shipment of mineral water and ginger ale, bottled, and advertising matter, from Sheboygan, Wis., to Memphis, Tenn., found to have been unreasonable to the extent that they exceeded the aggregate of intermediate rates contemporaneously in effect. Reparation awarded.

Alcus & Co. v. *Illinois Central Railroad Co.* (38 I. C. C., 493.)

5268. Rate applicable to the transportation of certain carload shipments of box material from New Orleans, La., to Durham, N. C., found to have been unreasonable. Defendants authorized to waive certain undercharges.

Holverscheid & Co. v. *Lehigh Valley Railroad Co.* (38 I. C. C., 495.)

5269. Charges collected for the transportation of a carload of coal from Coxton, Pa., to Lizton, Ind., reconsigned to Chicago, Ill., not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Bradley Timber & Railway Supply Co. v. *Minnesota & International Railway Co.* (38 I. C. C., 497.)

5270. Claim for reparation on shipments of spruce pulp wood in carloads from Big Falls and Farley, Minn., to Rothschild, Wis., found to have been abandoned. Complaint dismissed.

East St. Louis Cotton Oil Co. v. *St. Louis & San Francisco Railroad Co.* (38 I. C. C., 498.)

5271. Claim for reparation found to have been abandoned and complaint dismissed.

Webster & Co. v. *Philadelphia & Reading Railway Co.* (38 I. C. C., 499.)

5272. Commodity rate on feed-water heaters from Camden, N. J., to Jacksonville, Fla., higher than the class rate applicable on the same articles between the same points, not shown to be unreasonable. Complaint dismissed.

Tallahatchie Lumber Co. v. *Yazoo & Mississippi Valley Railroad Co.* (38 I. C. C., 501.)

5273. Rate of 25 cents per 100 pounds charged by defendants for the transportation of certain carload shipments of lumber from Philip, Miss., to South Bend., Ind., found not to have been unreasonable. Complaint dismissed.

Dorris Motor Car Co. v. *Wabash Railroad Co.* (38 I. C. C., 503.)

5274. Rate charged for the transportation of automobile gear frame steel side bars in less than carloads from North Milwaukee, Wis., to St. Louis, Mo., found to have been unreasonable to the extent that it exceeded the third-class rate. Reparation awarded.

Briggs & Turivas v. *Chicago & North Western Railway Co.* (38 I. C. C., 505.)

5275. Rate charged for the transportation of a carload of scrap iron from Hammond, Ind., to South Milwaukee, Wis., not found to have been unreasonable. Complaint dismissed.

Dare Lumber Co. v. *Norfolk Southern Railroad Co.* (38 I. C. C., 507.)

5276. Reparation awarded on account of an unreasonable rate charged for the transportation of four carloads of lumber from Elizabeth City, N. C., to Spring Grove, Pa.

Smith Lumber Co. v. *Norfolk Southern Railroad Co.* (38 I. C. C., 508.)

5277. Reparation awarded on account of an unreasonable rate charged on a shipment on lumber from Wendell, N. C., to Newark, N. J.

Muncie & Western Railroad Co. Case. (38 I. C. C., 510.)

Upon rehearing, *Held:*

5278. The Muncie & Western Railroad is a common carrier with which connecting carriers may participate in joint rates or to which they may make allowances for switching.

5279. The refusal of the trunk lines serving Muncie to absorb the switching charges of the Muncie & Western to and from Ball Bros. and Gill Bros. while contemporaneously absorbing the switching charges of the Muncie Belt and the Lake Erie Belt to and from the same industries is unjustly discriminatory, in contravention of section 3 of the act.

Freight Bureau of the Merchants & Manufacturers Asso. v. *Atlantic Coast Line Railroad Co.* (38 I. C. C., 516.)

5280. Complaint alleged that defendants' all-rail joint class rates from New York, N. Y., Philadelphia, Pa., and Baltimore, Md., to Birmingham, Ala., were unjust and unreasonable in that they exceeded the aggregates of the intermediate rates to and from Norfolk, Va. It appearing that those discrepancies have been corrected by defendants, complaint is dismissed.

Michigan Paper Mills Traffic Asso. v. *Alabama & Vicksburg Railway Co.* (38 I. C. C., 517.)

Upon complaint that the rates on paper from complainants' mills in Michigan to various destinations are unreasonable and unduly prejudicial, especially when compared with the rates from mills in Wisconsin to the same destinations, *Held:*

5281. The evidence fails to show that the rates to Chicago, Ill., to Illinois territory generally, to western trunk line territory, or to trans-Missouri territory are unreasonable or unduly prejudicial.

5282. Rates from complainants' mills to Oklahoma City, Okla., are 2 cents per 100 pounds higher than the combination on Chicago or St. Louis, and these rates should be corrected so as not to exceed such combinations.

5283. Rates to New Orleans, La., found to be unjustly discriminatory and required to be readjusted.

5284. Joint rates from Wisconsin mills to Nashville, Tenn., should be canceled, allowing the traffic to move on the Ohio River combination.

5285. Readjustment of rates on paper from New England and northern New York, approved in *Official classification rates on paper*, 38 I. C. C., 120, seems to require a readjustment of rates from Wisconsin mills to central freight association points, which should be made promptly.

5286. Less-than-carload rates from complainants' mills not found unreasonable or unduly prejudicial.

Elden v. *Southern Pacific Co.* (38 I. C. C., 530.)

5286 (*a*). Rate of 30 cents per 100 pounds charged for the transportation of fertilizers from Mococo, Cal., to Medford, Central Point, Ashland, Talent, and Grants Pass, Oreg., not found to have been unreasonable. Complaint dismissed.

Traffic Bureau of Sioux Falls Commercial Club v. *Great Northern Railway Co.* (38 I. C. C., 531.)

5287. Defendants' class rates from Duluth, Minn., and Superior, Wis., to Sioux Falls, S. Dak., not found to be unreasonable or unjustly discriminatory. Complaint dismissed.

Slocomb v. *Carolina Railroad Co.* (38 I. C. C., 535.)

5288. A carload of rosin shipped from Snow Hill, N. C., to New York, N. Y., found to have been misrouted. Reparation awarded.

Star Clothing Manufacturing Co. v. *Missouri, Kansas & Texas Railway Co.* (38 I. C. C., 537.)

5289. Rate charged for the transportation of cotton piece goods in less than carloads, originating at Clifton Heights, Pa., from St. Louis, Mo., to Jefferson City, Mo., not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Vacherie Cypress Co. v. *Texas & Pacific Railway Co.* (38 I. C. C., 539.)

5290. Carload of cypress laths transported from Vacherie, La., to Youngstown, Ohio, and carload of lumber transported from Plaquemine, La., to Washington C. H., Ohio, found to have been misrouted by the New Orleans, Texas & Mexico Railroad Co. Reparation awarded.

McCollough & Co. v. *Gulf & Sabine River Railroad Co.* (38 I. C. C., 541.)

5291. Certain shipments of cotton transported from Fullerton, La., to Galveston, Tex., found to have been misrouted by the Gulf & Sabine River Railroad Co. Reparation awarded.

United States Steel Lock Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (38 I. C. C., 542.)

5292. Second-class rate applied by defendants to the transportation of iron door locks with bronze trimmings, and third-class rate applied to iron door locks, from Lyons, Iowa, to St. Louis, Mo., found to be unreasonable. Rates not in excess of fourth class, subject to Illinois classification, for the transportation from Lyons, Iowa, to St. Louis, Mo., of iron or steel locks with or without brass or bronze trimmings in straight or mixed carloads prescribed for the future. Reparation awarded.

Iron and steel from Pacific coast points. (38 I. C. C., 545.)

5293. Proposed increased interstate rates on certain iron and steel articles from north Pacific coast points to points in Oregon, Washington, and Idaho found not justified. Schedules under suspension ordered canceled.

Darragh Co. v. *Chicago, Rock Island & Pacific Railway Co.* (38 I. C. C., 549.)

5294. Rates charged for the transportation of oats in carloads from Milburn, Okla., and corn chops in carloads from Council Bluffs, Iowa, to Aubrey, Ark., milled in transit at Little Rock, Ark., found to have been unreasonable to the extent that they exceeded the rates contemporaneously applicable on like traffic to Helena, Ark. Fourth section relief denied. Reparation awarded.

Commercial Exchange of Philadelphia v. *New York Central & Hudson River Railroad Co.* (38 I. C. C., 551.)

5295. Charge of $2 per car for service in connection with the reconsignment of carload shipments of grain, grain products, hay, and straw, stopped in transit at "hold" points and subsequently forwarded to destination, found to have been justified; but the same charge for service in connection with the diversion of similar shipments en route to "hold" points is found not to have been justified. Maximum charge of $1 per car for the latter service prescribed.

5296. Tariff provision purporting to give carrier option of forwarding cars to destination after accrual of $5 demurrage charges disapproved.

Teasdale & Co. v. *Virginia & Southwestern Railway Co.* (38 I. C. C., 565.)

5297. Rate charged for the transportation of dried apples in carloads from Rogersville, Tenn., to Bristol, Va., there reconsigned to Chicago, Ill., found not to have been unreasonable. Complaint dismissed.

California Corrugated Culvert Co. v. *Alabama Great Southern Railroad Co.* (38 I. C. C., 568.)

5298. Reparation, claimed on account of the discrimination found in *California Corrugated Culvert Co.* v. *A. G. S. R. R. Co.*, 33 I. C. C., 445, denied for want of proof of damage.

Sheldon & Co. v. *Wabash Railroad Co.* (38 I. C. C., 569.)

5299. Charges collected for the transportation of 100 cases of pickles and 98 packages of machinery and other articles inadvertently forwarded as separate less-than-carload shipments under two bills of lading, not shown to have been illegal. Complaint dismissed.

Hudson Motor Car Co. v. *Pennsylvania Railroad Co.* (38 I. C. C., 571.)

5300. Third-class rating of storage batteries in carloads from Philadelphia, Pa., to Detroit, Mich., not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Millar v. *Eastern Kentucky Railway Co.* (38 I. C. C., 573.)

5301. Charges collected for the transportation of two carloads of miscellaneous secondhand articles billed as "contractor's outfit," from Willard, Ky., to Murfreesboro, Ark., found not to have been in accordance with the tariff rates. Neither the rates legally applicable nor the charges collected shown to have been unreasonable or unjustly discrimatory. Complaint dismissed.

Oklahoma Fuel Co. v. *Fort Smith, Poteau & Western Railway Co.* (38 I. C. C., 576.)

5302. Charges collected for the transportation of one carload of coal from Witteville, Okla., to Gould, Okla., reconsigned to Wellington, Tex., and returned to Gould, not found to have been unreasonable. Complaint dismissed.

Bradley Lumber Co. v. *New Orleans Great Northern Railroad Co.* (38 I. C. C., 579.)

5303. A carload of pine lumber shipped from Smith, La., to Cobourg, Ontario, found not to have been misrouted and complaint dismissed.

Sunderland Bros. Co. v. *Chicago & North Western Railway Co.* (38 I. C. C., 581.)

5304. Through rate charged by defendants for the transportation of a carload of lump soft coal from Hudson, Wyo., to Steinauer, Nebr., found unreasonable to the extent that the rate charged for the haul from Omaha, Nebr., to Steinauer exceeded the rate subsequently established and now in effect.

Wilcox v. *Erie Railroad Co.* (38 I. C. C., 583.)

5305. Reparation awarded on account of unreasonable through charges collected on a shipment of seed potatoes from Seeley Creek, N. Y., to Lemon City, Fla.

Oklahoma Fuel Co. v. *Missouri, Kansas & Texas Railway Co.* (38 I. C. C., 585.)

5306. Rate charged for the transportation of one carload of coal from Witteville, Okla., to Burkburnett, Tex., and the rate legally applicable found to have been unreasonable Reparation awarded. Defendants' application for relief from the provisions of the fourth section denied.

Lumber to C., M. & St. P. Ry. stations. (38 I. C. C., 587.)

5307. Proposed cancellation of joint through rates on lumber from producing points on the Chicago & North Western Railway in Minnesota, Wisconsin, and the upper peninsula of Michigan, to certain points on the Chicago, Milwaukee & St. Paul Railway west of the Mississippi River, found not justified.

Mutual Oil Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 591.)

5308. Rate charged for interstate transportation of refined petroleum from Coffeyville and Niotaze, Kans., to Superior, Nebr., found to have been unreasonable. Reparation awarded in view of the special conditions shown of record.

Chamber of Commerce of Washington v. *Pennsylvania Railroad Co.* (38 I. C. C., 593.)

On the facts of record, *Held:*

5309. That portion of defendants' Fourth Section Application No. 1781 which asks authority to continue lower commodity rates to Fredericksburg, Richmond, and Petersburg, Va., than to Washington, D. C., on traffic from New York and other eastern points is denied.

5310. Defendants should establish a list of commodity rates from New York and other eastern points to Washington substantially similar to their commodity rates contemporaneously maintained from the same points to Fredericksburg, Richmond, and Petersburg, on a reasonable basis lower than the class rates.

5311. Case held open to afford the carriers an opportunity to readjust their commodity rates in accordance with the views expressed in the report.

Bradley Timber & Railway Supply Co. v. *Minneapolis, St. Paul & Sault Ste. Marie Railway Co.* (38 I. C. C., 598.)

5312. Charges collected for the transportation of a carload of lumber from Weirgor, Wis., to Chicago, Ill., found to have been assessed with tariff authority. Complaint dismissed.

Salem Iron Works v. *Southern Pacific Co.* (38 I. C. C., 600.)

5313. Rate of $3.094 per gross ton charged for the transportation of coke from Wilkeson, Wash., to Salem, Oreg., found to have been unreasonable to the extent that it exceeded $2.55 per gross ton. Reparation awarded.

Mount Pleasant Fertilizer Co. v. *New Orleans & Northeastern Railroad Co.* (38 I. C. C., 602.)

5314. Carload rates on fertilizer from Mount Pleasant, Tenn., to various destinations in Kentucky, Alabama, and Mississippi considered and the rates to certain destinations found to have been unreasonable. Reparation awarded.

5315. Fourth section relief denied.

Chapin & Co. v. *Chicago, Indianapolis & Louisville Railway Co.* (38 I. C. C., 611.)

5316. Rates charged for the transportation of distillers' dried grain in carloads from Louisville, Ky., and corn oil meal and corn oil cake in carloads from Indianapolis, Ind., to eastern destinations, manufactured into mixed feed at Hammond, Ind., not found unreasonable. Complaint dismissed.

Catoosa Limestone Products Co. v. *Western & Atlantic Railroad Co.* (38 I. C. C., 614.)

5317. Rates on crushed stone in carloads from Graysville, Ga., to Chattanooga, Tenn., and to Jacksonville and other Florida points, not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Updike Grain Co. v. *Chicago, St. Paul, Minneapolis & Omaha Railway Co.* (38 I. C. C., 616.)

5318. Rate of 12 cents per 100 pounds legally applicable on corn in carloads from Ashton, Hospers, and Sheldon, Iowa, to Council Bluffs, Iowa, reconsigned to Lincoln, Nebr., and Kansas City, Mo., found not to have been unreasonable. Complaint dismissed.

Continental Can Co. v. *Baltimore & Ohio Railroad Co.* (38 I. C. C., 618.)

5319. Tin cans are loaded in bulk in box cars, and for some years prior to February–March, 1915, money allowances were made by defendants when inside doors were furnished for the protection of bulk shipments in box cars. Since that time no such allowances have been made except on shipments of grain and flaxseed. Upon complaint that the withdrawal of these allowances was in violation of sections 1, 2, and 3 of the act, *Held*, That the carriers have justified the withdrawal.

Hammer v. *Atlantic Coast Line Railroad Co.* (38 I. C. C., 621.)

5320. Charges imposed by defendants for the transportation of a carload of lumber from Wilmington, N. C., to Salem, Mass., not found unreasonable or unjustly discriminatory. Complaint dismissed.

International Fuel Co. v. *Spokane International Railway Co.* (38 I. C. C., 622.)

5321. Charges collected on a carload of coal from Corbin, British Columbia, to Spokane, Wash., not found to have been based on an erroneous weight.

McCaull-Dinsmore Co. v. *Chicago, St. Paul, Minneapolis & Omaha Railway Co.* (38 I. C. C., 624.)

5322. Shipment of shelled corn from Ritter, Iowa, to Kansas City, Mo., not shown to have been misrouted, and rate charged not shown to have been unreasonable. Complaint dismissed.

Bowie Lumber Co. v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (38 I. C. C., 625.)

5323. Charges collected by defendant for the transportation of lumber in carloads from Ludivine, La., to Bowie, La., for milling, and reshipped to various interstate destinations, found to have been unlawful. Reparation awarded.

Knapp Supply Co. v. *Ohio Electric Railway Co.* (38 I. C. C., 627.)

5324. Provision in defendant's tariffs for the nonacceptance for transportation of less than 10,000 pounds of iron pipe exceeding 10 feet in length found unreasonable.

Dodd & Struthers v. *Pennsylvania Railroad Co.* (38 I. C. C., 629.)

5325. Rates on lightning-rod fixtures from Trenton, N. J., to Des Moines, Iowa, found legally applicable and not shown to have been unreasonable. Complaint dismissed.

Progressive Metal & Refining Co. v. *Chicago & North Western Railway Co.* (38 I. C. C., 631.)

5326. Rate charged for the transportation of scrap copper and scrap brass in carloads and of scrap brass and slab zinc dross in mixed carloads from Chicago, Ill., to Milwaukee, Wis., found unreasonable and reasonable maximum rate prescribed for the future. Reparation denied.

MacGillis & Gibbs Co. v. *Northern Pacific Railway Co.* (38 I. C. C., 633.)

5327. Local distance rate from Tuscor, Mont., to Clark's Fork, Idaho, charged on shipments of lumber for beyond, found to have been lawfully applicable and its measure not being in issue, complaint dismissed.

Marshalltown Buggy Co. v. *Chicago, Burlington & Quincy Rrailroad Co.* (38 I. C. C., 634.)

5328. Rate charged for the transportation of buggy bodies, in the white, in less than carloads, from St. Louis, Mo., to Marshalltown, Iowa, not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Emery & Co. v. *Boston & Maine Railroad.* (38 I. C. C., 636.)

5329. Shipments of freight from Canada to the United States entered at Newport, Vt., are consigned to brokers at Newport who pay the customs duties and forward the shipments to the ultimate consignees. Defendant's agent at Newport is also a licensed customs broker and defendant permits him to "expense forward" on the waybills that accompany the shipments the customs duties which he pays, together with his brokerage fees. Other licensed customs brokers are denied this service. Motion for dismissal of complaint for want of jurisdiction denied.

5330. The Commission has jurisdiction over the domestic movement of traffic originating in Canada.

5331. The duty of carriers not to discriminate between persons is owed only to patrons of their transportation service, but customs brokers who act as consignees at ports of entry and who forward the shipments consigned to them for entry to the ultimate consignees are patrons of the transportation service afforded by the carrier employed.

5332. The duty of carriers not to discriminate between shippers obtains for voluntary as well as for compulsory services.

American Cement Plaster Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (38 I. C. C., 639.)

5333. Rates on cement plaster in carloads from Acme, Tex., to points in other states not found to be unreasonable but held to be unduly prejudicial.

National Dock & Storage Warehouse Co. v. *Boston & Maine Railroad.* (38 I. C. C., 643.)

5334. Defendant's practice of absorbing switching charges of connecting lines to and from Commonwealth Pier while refusing to absorb switching charges of connecting lines to and from complainant's dock found unduly prejudicial.

5335. Proposed discontinuance of absorptions of switching charges of connecting lines to and from Commonwealth Pier and of wharfage charges at said pier justified.

Bituminous coal from points on the Pennsylvania Railroad. (38 I. C. C., 658.)

5336. Application for authority to establish rates on bituminous and cannel coal from points on the Pennsylvania Railroad and its connections to water competitive points on the Maryland-Delaware peninsula lower than rates contemporaneously applicable on like traffic to intermediate points denied.

Peninsular & Occidental Steamship Co. Case. (38 I. C. C., 662.)

5337. Upon further consideration of all the facts of record, and in view of the revisions in the rates and the divisions thereof made by petitioners and the steamship company; *Held*, That the continued ownership and operation of the steamship company by petitioners as at present conducted will neither exclude, prevent, nor reduce competition on the route by water under consideration, and that the applications should be granted, subject to such further order or orders as may hereafter be entered by the Commission.

Central Freight Association territory fresh meat and packing-house product rates. (38 I. C. C., 665.)

5338. By the suspended tariff schedules respondents proposed certain increased rates for the transportation of fresh meats, packing-house products packed, and packing-house products loose, between points in Central Freight Association territory. Subsequent to the hearing and in view of the Commission's decision in *Eastern Live Stock Case*, 36 I. C. C., 675, respondents abandoned their claims to have justified the rates under suspension and asked that rates not published in the suspended schedules be approved. In the meantime the Commission extended a pending general investigation so as to include official and southern classification territories. Upon all the facts, *Held*, That the suspended schedules should be canceled, but without prejudice to the filing of new tariffs naming rates on packing-house products packed and packing-house products loose.

5339. Proposed increased carload minima applicable to the transportation of fresh meat and packing-house products loose, between points in Central Freight Association territory, found to have been justified.

Rates on iron and steel articles to Spokane, Wash. (38 I. C. C., 669.)

5340. Proposed increased rates on sheet iron and steel, No. 12 and lighter, from eastern defined territories to Spokane, Wash., found to be in violation of Fourth Section Order No. 124, and therefore not justified. Suspended schedules ordered canceled.

Shippers of Eastman v. *Southern Railway Co.* (38 I. C. C., 672.)

5341. Present class and commodity rates from New York, N. Y., Cincinnati, Ohio, and Memphis, Tenn., to Eastman, Ga., found not unjustly discriminatory. Complaint dismissed.

Commercial Exchange of Philadelphia v. *Pennsylvania Railroad Co.* (38 I. C. C., 675.)

5342. Charge of three-fourths of a cent per bushel at the port of Philadelphia, Pa., for the loading of export grain from elevators directly into ocean-going vessels not found to be unjustly discriminatory as compared with the charge of one-half of a cent per bushel for like services at the port of New York, N. Y.

Meeds Lumber Co. v. *Alabama & Vicksburg Railway Co.* (38 I. C. C., 679.)

5343. Shipments of lumber from Louisville, Miss., to Sylacauga, Ala., found to have been misrouted, and reparation awarded.

Moore-Seaver Grain Co. v. *Union Pacific Railroad Co.* (38 I. C. C., 682.)

5344. Charges collected by defendants for the transportation of corn and oats in carloads from points in South Dakota, Minnesota, and Iowa to Kansas destinations, stopped in transit at Kansas City, Mo., not found to have been in excess of the lawful tariff charges. Complaint dismissed.

Englehart Heating Co. v. *Nashville, Chattanooga & St. Louis Railway.* (38 I. C. C., 685.)

5345. Charges collected on various less-than-carload shipments of rough sectional boiler castings from Chattanooga, Tenn., to Atlanta, Ga., found to have been unlawful. Reparation awarded.

Updike Elevator Co. v. *Chicago, Rock Island & Pacific Railway Co.* (38 I. C. C., 687.)

5346. Rates charged for the transportation of oats and corn from Omaha and South Omaha, Nebr., to Douglas, Naco, Hereford, Warren, and Fort Huachuca, Ariz., found not to have been unreasonable or unjustly discriminatory. Reparation denied.

Nashville Tie Co. v. *Louisville & Nashville Railroad Co.* (38 I. C. C., 689.)

5347. Rates charged by defendant for the transportation of oak crossties in carloads from Cumberland Furnace and Sylvia, Tenn., by way of Guthrie, Ky., to Nashville, Tenn., found unreasonable to the extent that they exceeded and exceed the rates contemporaneously applicable to oak lumber from and to the same points. Reparation awarded and reasonable rates prescribed for the future.

Colorado Fuel Co. v. *Colorado & Southern Railway Co.* (38 I. C. C., 690.)

5348. Charges collected for the transportation of one carload of nut coal from Walsenburg, or Hickory Canon, Colo., reconsigned to Coldwater, Kans., and rule

prohibiting reconsignment at the through rate after expiration of the first 72 hours from the time of the arrival of shipment at its first destination not found unreasonable. Complaint dismissed.

Fargo Foundry Co. v. *Northern Pacific Railway Co.* (38 I. C. C., 693.)

5349. Rates charged for the transportation of molding sand from St. Paul, Minn., to Fargo, N. Dak., not shown to have been unreasonable. Complaint dismissed.

Hunter-Robinson-Wenz Milling Co. v. *St. Louis, Iron Mountain & Southern Railway Co.* (38 I. C. C., 695.)

5350. Upon complaint alleging that the rate charged for the transportation from Memphis, Tenn., to Gulfport, Miss., of bran in carloads, originating at Jackson, Mo., and reconsigned at Memphis, was unreasonable and that defendants' rules relative to reshipping rates on bran from Memphis to Gulfport were unreasonable and unduly prejudicial; *Held*, That the rates and rules attacked were inapplicable to the shipments involved, and that the legal joint rate from Jackson to Gulfport should have been applied. Complaint dismissed.

Eastern & Western Lumber Co. v. *Southern Pacific Co.* (38 I. C. C., 697.)

5351. Defendants' charges for the transportation of a carload of lumber under practices and published rules for ascertaining the net weight, by taking the difference between the gross weight of car and shipment at point of origin and the actual tare at final destination, not found to be unreasonable. Complaint dismissed.

Gablowsky v. *Green Bay & Western Railroad Co.* (38 I. C. C., 699.)

5352. Rate charged for the transportation of seven carloads of logs from Toleens Spur, Mich., to Seymour, Wis., not found to have been unreasonable. Complaint dismissed.

Puyallup & Sumner Fruit Growers' Asso. v. *Northern Pacific Railway Co.* (38 I. C. C., 701.)

5353. Rate charged for the transportation of a carload of canned berries from Puyallup, Wash., to Salt Lake City, Utah, not found to have been unreasonable. Complaint dismissed.

Keystone Lumber Co. v. *Bennettsville & Cheraw Railroad Co.* (38 I. C. C., 702.)

5354. Shipment of lumber from Drake, S. C., to McDonoughs, N. J., not found to have been misrouted and rate charged not found illegal or unreasonable.

Ulland Coal Co. v. *Louisville & Nashville Railroad Co.* (38 I. C. C., 704.)

5355. Rates charged for the transportation of coal in carloads from various points on the Louisville & Nashville Railroad in Kentucky and Tennessee to Hunt street, Cincinnati, Ohio, found not to have been unreasonable and reparation denied.

Strobel Co. v. *Illinois Central Railroad Co.* (38 I. C. C., 707.)

5356. Rate charged for the transportation of a less-than-carload shipment of wood moldings from New Orleans, La., to Cincinnati, Ohio, found not unreasonable and complaint dismissed. Refund of overcharge in weight directed.

Woodland Lumber Co. v. *Norfolk Southern Railroad Co.* (38 I. C. C., 709.)

5357. Claim for reparation on a carload of lumber shipped from Hertford, N. C., to Atlantic City, N. J., and reconsigned to Toms River, N. J., denied. Complaint dismissed.

Railroad Commissioners of Florida v. *Central of Georgia Railway Co.* (38 I. C. C., 711.)

5358. Rates on coal in carloads from Birmingham, Acmar, and Margaret, Ala., points in the Birmingham coal district, to Quincy, Tallahassee, Madison, Monticello, and Apalachicola, Fla., not found to be unduly discriminatory. Complaint dismissed.

Greenbaum Co. v. *Southern Railway Co.* (38 I. C. C., 715.)

5359. Complainant not found to have been damaged by the imposition of alleged unreasonable and unjustly discriminatory rates on distillers' dried grain in carloads from Midway, Ky., to Norfolk and Newport News, Va., Baltimore, Md., and Philadelphia, Pa., for export. Rates involved having been re-

adjusted by defendants since the hearing on a basis satisfactory to complainant, complaint dismissed.

Joseph Bros. & Co. v. *Maine Central Railroad Co.* (38 I. C. C., 719.)

5360. Complaint attacks rates on old steel rails and scrap iron from various points in Maine and New Hampshire to points in Pennsylvania. No one familiar with the facts appeared at the hearing; *Held*, That the evidence offered is incompetent and complaint dismissed.

Peerless Wire Fence Co. v. *Wabash Railroad Co.* (38 I. C. C., 721.)

5361. Carload of wire fence shipped from Adrian, Mich., to Menard, Tex., found to have been misrouted. Reparation awarded.

Garden City Sand Co. v. *New York, Chicago & St. Louis Railroad Co.* (38 I. C. C., 723.)

5362. Charges collected for the transportation of molding sand in carloads from Valparaiso, Nickel, Ind., to Chicago, Ill., not shown to have been unreasonable. Complaint dismissed.

Columbia Oil Co. of N. Y. v. *Central Railroad Co. of N. J.* (38 I. C. C., 725.)

5363. Reparation awarded on account of an unreasonable rate charged for the transportation of 53 carloads of refined petroleum in tank cars from Freemansburg, Pa., to Constable Hook, N. J.

Pioneer Pearl Button Co. v. *Cleveland, Cincinnati, Chicago & St. Louis Railway Co.* (38 I. C. C., 727.)

5364. Charges collected by defendants for the transportation of less-than-carload shipments of pasteboard button cabinets from St. Louis, Mo., to Poughkeepsie, N. Y., not found to have been unlawful or unreasonable. Complaint dismissed.

Flour City Steamship Co. v. *Lehigh Valley Railroad Co.* (38 I. C. C., 729.)

5365. The Flour City Line, a carrier on the great lakes, paid charges which accrued in connection with the transfer of interstate shipments from the end of its steamers' gangplanks into the cars of defendant rail carriers at Buffalo, N. Y. There was no through route or joint rate by way of the Flour City Line and defendants' lines, and no tariff authority for the intermediate service; *Held*, That the responsibility for the transfer of the shipments rested upon the shippers.

5366. Reparation denied to complainant, the successor in interest of the Flour City Line.

Pacific Bridge Co. v. *Spokane, Portland & Seattle Railway Co.* (38 I. C. C., 732.)

5367. Rate charged for the transportation of stone paving blocks in carloads from Wahkiakus, Wash., to Portland, Oreg., not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Robinson Co. v. *American Express Co.* (38 I. C. C., 733.)

5368. Rate of $2.50 per 100 pounds maintained by the defendants for the transportation of fruits and berries in carloads from Hood River, Oreg., to Winnipeg, Brandon, and Portage la Prairie, Manitoba, found to have been unreasonable.

5369. Reparation denied on shipments to Winnipeg and Brandon because complainant apparently was a stranger to defendants' transportation records relative to the shipments.

Staten & King Hardware Co. v. *Pennsylvania Co.* (38 I. C. C., 736.)

5370. Complaint against the rate charged for the transportation of a carload of agricultural implements from Canton, Ohio, to Florence, Ala., held to have been abandoned.

Haarmann Vinegar & Pickle Co. v. *Chicago, Rock Island & Pacific Railway Co.* (38 I. C. C., 737.)

5371. Rate of 13 cents per 100 pounds charged on 18 carload shipments of cull and windfall apples from Troy, Kans., to Pawnee, Nebr., found to have been unreasonable to the extent that it exceeded a rate of 9½ cents per 100 pounds. Reparation awarded.

Donahue-Stratton Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (38 I. C. C., 739.)

5372. Reparation awarded against initial carrier for damages due to the misrouting of a carload of oats shipped from Carpenter, Iowa, to Rib Lake, Wis.

Gamble-Robinson Co. v. *Chicago & Eastern Illinois Railroad Co.* (38 I. C. C., 740.)

5373. Carload of watermelons shipped from Holcomb, Mo., to Marshall, Minn., found not to have been misrouted, and complaint dismissed.

Danville class and commodity rates. (38 I. C. C., 742.)

5374. Proposed increased class rates between Danville, Va., and points in the state of North Carolina found justified. Orders of suspension vacated.

5375. When investigating the propriety of increased rates under suspension the Commission, in addition to the question of their reasonableness, may consider to what extent they may involve unlawful discriminations and preferences in their relation to other rates; but to withhold approval of proposed rates that are found to be reasonable and in harmony with the general interstate rate adjustment in the territory in question solely because the state rates are on a lower level would put both the carriers and the Commission under the control of state authorities in many cases involving interstate rates.

West Lumber Co. v. *Missouri, Kansas & Texas Railway Co.* (38 I. C. C., 746.)

5376. The complainant alleges that the defendants' rates on lumber from Westville and Onalaska, Tex., to points in Oklahoma are unreasonable and unduly prejudicial. At the hearing the defendants agreed to publish the rates desired by the complainant. Such rates having been established, the complaint is dismissed.

Relations between carriers by rail and carriers by water. (39 I. C. C., 1.)

5377. Data submitted show the corporate interest of railroads in vessels or steamship lines and the vessels owned or operated by railroads.

Arlington Heights Fruit Exchange v. *Southern Pacific Co.* (39 I. C. C., 88.)

5378. Reparation denied on carload shipments of precooled and pre-iced oranges transported from California originating points to destinations in other states and in Canada.

Hayden Bros. Coal Corporation v. *Denver & Salt Lake Railroad Co.* (39 I. C. C., 94.)

5379. Through routes and joint rates on soft coal in carloads established from Oak Hills, Colo., and points taking the same rates, to stations in Kansas, Nebraska, Missouri, Iowa, and South Dakota, on the Atchison, Topeka & Santa Fe Railway, the Missouri Pacific Railway, the Chicago & North Western Railway, and the Chicago, St. Paul, Minneapolis & Omaha Railway. Section 15 of the act precludes the establishment of through routes and joint rates via the Union Pacific Railroad from Oak Hills to stations on the Missouri Pacific Railway in Kansas south of Kanopolis, Kans.

Duffney Brick Company v. *Boston & Maine Railroad.* (39 I. C. C., 118.)

5380. Increased local rates on brick from Mechanicville and Lansingburgh, N. Y., and from Gonic, N. H., to Boston, Mass., and adjacent territory found justified. Record held open to permit subsequent hearing as to joint rates on brick from Gonic to other territories which are alleged to be unreasonable and unjustly discriminatory.

Nona Mills Co. v. *Kansas City Southern Railway Co.* (39 I. C. C., 125.)

5381. Joint rates on lumber from Leesville, La., by way of the Kansas City Southern Railway and the Gulf, Colorado & Santa Fe Railway, to points on the lines of the Santa Fe system, in the states of Texas and Oklahoma, found to be unjustly discriminatory to the extent that they exceed the rates contemporaneously maintained from points on the lines of the Gulf, Colorado & Santa Fe, in Louisiana, to the same points.

Import and domestic rates on clay. (39 I. C. C., 132.)

5382. Because of informal complaints filed with the Commission to determine the propriety of the import rates on English clay from Gulf ports and north Atlantic ports to points in central freight association territory which were lower than the domestic rates on clay mined in the state of Georgia to the same

destinations, a hearing was had under a general order of the Commission which provides for an investigation into the rates, practices, rules, and regulations governing the transportation of imported property and the relationship between the rates for such transportation and for transportation of similar property originating in the United States; *Held*, That the present adjustment has not been shown to be unjustly discriminatory against domestic traffic.

Capital City Oil Co. v. *Yazoo & Mississippi Valley Railroad Co.* (39 I. C. C., 141.)

5383. Carload rates on cotton seed from points on defendants' lines in the state of Mississippi to Baton Rouge and New Orleans, La., not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

Gisholt Machine Co. v. *Chicago & North Western Railway Co.* (39 I. C. C., 147.)

5384. Charges collected for the transportation of a less-than-carload shipment of iron-working machinery from Madison, Wis., to Chicago, Ill., found to have been excessive by reason of the failure of defendant's tariff, which named a commodity rate thereon, to provide for the application of the rate named to shipments set up on skids. Reparation awarded.

Mutual Rice Trade & Development Asso. v. *International & Great Northern Railway Co.* (39 I. C. C., 149.)

5385. Carload rates on domestic brewers' rice from Houston, Tex., to various points in central freight association territory and to points in Illinois, which are certain differentials over the rates on domestic brewers' rice from New Orleans, La., to the same points, not found unduly prejudicial to Houston.

5386. Where rates on imported brewers' rice from Galveston, Tex., to Chicago, Ill., Indianapolis, Ind., or other interior points, are more than 6 cents lower than rates on imported brewers' rice from New York to the same points, it is unjustly discriminatory to charge higher rates on domestic than on import shipments from Galveston or Houston. *Import and domestic rates*, 36 I. C. C., 389.

5387. An increase of 5 cents per 100 pounds in the rate on clean rice from Houston to north Pacific coast points, effective February 1, 1914, found justified.

Black Mountain Corporation v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 153.)

5388. The combination rate of $1.95 per net ton on bituminous coal from the Black Mountain district in Virginia to Atlanta, Ga., applicable by way of the Louisville & Nashville Railroad and Southern Railway through Cumberland Gap, Tenn., found to be unreasonable. The Louisville & Nashville Railroad required to establish a rate for the future not to exceed $1.70 per net ton to apply over its own rails through Corbin, Ky., or in connection with the Southern Railway through Cumberland Gap.

5389. The combination rate of $1.74 per gross ton on bituminous coal from the Black Mountain district to Norfolk, Va., for delivery to vessels destined to points outside the capes of Virginia, found to be unjustly discriminatory to the extent that it exceeds the rate from Norton, Va., to Norfolk, applicable on like traffic, by more than 20 cents per gross ton.

Pardee Works v. *Central Railroad Company of N. J.* (39 I. C. C., 162.)

5390. Upon the facts shown of record, *Held*, That the defendants' present rate adjustment gives to the competitors of the complainant an undue and unreasonable preference and advantage to the prejudice and disadvantage of the complainant.

Hay minimum weights. (39 I. C. C., 167.)

5391. Proposed increase of carload minimum weights for hay shipped from points in the Pecos Valley of New Mexico to various destinations in Texas and Louisiana justified in part.

Navassa Guano Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (39 I. C. C., 171.)

5392. Original decision that a claim for reparation filed more than two years after the date on which the shipment was delivered, including the date of delivery, was barred by the statute of limitations, affirmed on rehearing, and complaint dismissed.

Southern classification ratings. (39 I. C. C., 173.)

5393. Proposed changes in the descriptions and class ratings of machine-finished sprocket chains, iron or steel pipe, riveted, stick licorice, ice-making machinery, and popped corn confectionery, in southern classification territory found justified.

Cotton concentration at Weleetka. (39 I. C. C., 181.)

5394. Proposed elimination of certain stations from which cotton may be shipped for compression at Weleetka, Okla., justified.

Classification of chain. (39 I. C. C., 185.)

5395. Changes proposed in the western classification in the descriptions and ratings of chains, belting, or sprocket, justified.

Lumber from Easton. (39 I. C. C., 188.)

5396. Proposed increased rates for the transportation of lumber in carloads from Baker, Bristol, Cle Elum, Easton, Lavender, Nelsons, Talmage, Teanaway, and Whittier, Wash., to points in North and South Dakota, Nebraska, Kansas, Colorado, Idaho, Louisiana, Missouri, Montana, New Mexico, Oklahoma, Oregon, Texas, Utah, and Wyoming found to have been justified.

Coal to Glencoe. (39 I. C. C., 190.)

5397. Proposed increased rates on bituminous coal in carloads from mines on the St. Louis, Iron Mountain & Southern Railway in Illinois to stations on the Missouri Pacific Railway in Missouri found justified, and order of suspension vacated.

Gile & Co. v. *Southern Pacific Co.* (39 I. C. C., 193.)

5398. Upon rehearing, rates from eastern defined territories to points in the Willamette Valley of Oregon found justified.

Davis Milling Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 198.)

5399. Present adjustment of rates on pancake flour and buckwheat flour from St. Joseph, Mo., to San Francisco and Los Angeles, Cal., shown upon rehearing to be satisfactory to all parties in interest.

Aetna Powder Co. v. *Wabash Railroad Co.* (39 I. C. C., 199.)

5400. Following *Rates on high explosives to G. T. Ry. System stations*, 33 I. C. C., 567, no conclusion expressed on the question whether the Commission has jurisdiction to require the establishment of joint rates from Aetna, Ind., through the Dominion of Canada to Concord Junction, Mass. Orders previously entered rescinded in part because of the establishment of through routes and joint rates entirely within the United States.

Wellington Mines Co. v. *Colorado & Southern Railway Co.* (39 I. C. C., 202.)

5401. Increased through rates on zinc concentrates from Breckenridge, Colo., to Bartlesville and Collinsville, Okla., found not to have been justified in respect of the component applicable from Breckenridge to Denver, Colo. Reasonable proportional rate prescribed for the future.

5402. The shipments on which reparation is asked exceeded in value per ton the value of the ore on which the rate here prescribed is predicated, and therefore complainant is not entitled to reparation.

Coffeyville Vitrified Brick & Tile Co. v. *Missouri Pacific Railway Co.* (39 I. C. C., 208.)

5403. Claim for reparation considered to have been abandoned under the Commission's Rules of Practice and complaint dismissed.

Ennis, Brown Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 209.)

5404. Former finding that the nonabsorption of storage charges at Stockton, Cal., on certain shipments of beans was not shown to have resulted in damage to complainants. Affirmed on rehearing.

Abel & Roberts v. *Missouri Pacific Railway Co.* (39 I. C. C., 211.)

5405. Shipments of brick in carloads from Buffalo and Coffeyville, Kans., to Lincoln, Nebr., found to have been overcharged.

Broderick & Bascom Rope Co. v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 213.)

5406. Rates charged for the transportation of wire rope in less than carloads from St. Louis, Mo., to Savannah, Ga., and Belfast, Ga., found unreasonable to the extent that they exceeded the aggregates of the rates to and from Pensacola, Fla. Reparation awarded.

Beekman Sawmill Co. v. *St. Louis, Iron Mountain & Southern Railway Co.* (39 I. C. C., 215.)

5407. Rate charged by defendants for the transportation of a carload of second-hand sawmill machinery from Stevenson, La., to DeQueen, Ark., not shown to have been unreasonable. Complaint dismissed.

Joseph & Bros. Co. v. *Delaware & Hudson Co.* (39 I. C. C., 217.)

5408. Rate of $2.10 per gross ton charged for the transportation of 15 carloads of old rails from Albany, N. Y., to Newberry, Pa., found to have been unreasonable to the extent that it exceeded $1.90. Reparation awarded.

Pocahontas Coke Co. v. *Norfolk & Western Railway Co.* (39 I. C. C., 218.)

5409. Charges based on rates to and from Greensboro, N. C., for the transportation of a carload of coke from Pocahontas, Va., to Greensboro, N. C., reconsigned thence to Greenville, S. C., not shown to have been unreasonable. Complaint dismissed.

Shecter v. *Southern Pacific Co.* (39 I. C. C., 220.)

5410. Charges collected for the transportation of two carloads of machinery arc lamps and scrap iron billed as junk from Mesa, Ariz., to San Francisco, Cal., not shown to have been improperly assessed. Complaint dismissed.

Keeton v. *St. Louis Southwestern Railway Co.* (39 I. C. C., 221.)

5411. A less-than-carload shipment of household goods from Athens, Tex., to Washington, D. C., found to have been misrouted by the initial carrier. Reparation awarded.

Riegel Sack Co. v. *Central Railroad Company of N. J.* (39 I. C. C., 222.)

5412. Rates charged by defendants on burlap bags from Griffing Station, Jersey City, N. J., to Columbus, Ohio; East St. Louis, Ill.; Salina, Kans.; and other points, not shown to have been unreasonable. Complaint dismissed.

Memphis Freight Bureau v. *St. Louis, Iron Mountain & Southern Railway Co.* (39 I. C. C., 224.)

5413. Upon complaint of the Memphis Freight Bureau, in No. 6390, the class rates from Memphis to points in southern Arkansas and Louisiana found to be unjust and unreasonable in so far as they exceed the mileage scale herein prescribed.

5414. Class rates from Memphis to points in southern Arkansas and Louisiana found to unjustly discriminate against Memphis to the undue preference of St. Louis. Appropriate class differentials Memphis under St. Louis prescribed.

5415. Combinations which make lower than through rates should not be exceeded, even though the factors comprising the comination are governed by different classifications.

5416. Carriers are expected to revise their commodity rates in harmony with the determination reached in regard to class rates.

5417. In No. 7250 the findings in No. 6390 are adopted with respect to the rates from Memphis to Shreveport and Alexandria, La.; the St. Louis differentials over Memphis on traffic from St. Louis to Shreveport and Alexandria; and the principle to be applied under the fourth section. In addition, the rates from Kansas City and from points in defined territories and in eastern seaboard territory to Shreveport and Alexandria are considered and passed upon.

Cities of Marshall and Jefferson v. *Texas & Pacific Railway Co.* (39 I. C. C., 249.)

On complaint that the present class and commodity rates to Marshall and Jefferson, Tex., from points east and north thereof, are unreasonable and unjustly discriminatory in comparison with like rates to Texarkana, Ark.-Tex., and Shreveport, La., *Held:*

5418. The class rates from Memphis, Tenn., to Marshall and Jefferson are unreasonable and unjustly discriminatory in so far as they exceed rates based on the mileage scale prescribed in *Memphis Freight Bureau* v. *St. L., I. M. & S. Ry.*

Co., 39 I. C. C., 224. Class rates from St. Louis should not exceed the rates from Memphis by more than the differentials therein named. The carriers will be expected to revise their commodity rates in harmony with the class rates and to accord to Marshall and Jefferson commodity rates as freely and to the same extent as to Texarkana and Shreveport.

5419. Rates from New Orleans and from Atlantic seaboard territory via Gulf and rail to Marshall and Jefferson are unreasonable to the extent that they exceed the aggregates of the intermediate rates based on Shreveport.

5420. Defendants' applications for authority to continue to charge lower rates to Texarkana and Shreveport on traffic passing through Marshall and Jefferson than is charged on like traffic to Marshall and Jefferson will be granted, provided rates to the intermediate points do not exceed those herein prescribed.

5421. Reparation denied.

City of Memphis v. *Chicago, Rock Island & Pacific Railway Co.* (39 I. C. C., 256.)

Upon complaint by the Memphis Freight Bureau and certain merchants, manufacturers, and shippers at Memphis that, among other things, the interstate class and commodity rates between Memphis and Arkansas and Missouri points are unreasonable and unduly prejudicial to Memphis in favor of Arkansas points, St. Louis, and East St. Louis; *Held:*

5422. The class and commodity rates between Memphis and Arkansas points, except as herein noted, are reasonable as a whole; the maintenance of class and commodity rates between points in Arkansas lower by more than a reasonable bridge toll across the Mississippi River than the interstate class and commodity rates between Memphis and Arkansas points for similar distances results in a relationship unduly prejudicial to Memphis; the existing discrimination must cease.

5423. The class and commodity rates between Memphis and Missouri points have not been shown to be unduly prejudicial to Memphis when compared with the class and commodity rates between St. Louis and East St. Louis and Missouri points.

5424. The class and commodity rates between Memphis and northeastern Arkansas points are reasonable as a whole; the present class and commodity rates between St. Louis and East St. Louis and northeastern Arkansas points are unduly prejudicial to Memphis. Defendant carriers given 60 days within which to submit for our approval nondiscriminatory rates.

5425. The class and commodity rates between Memphis and southern Arkansas points, such as El Dorado, Crossett, and Camden, are unduly prejudicial to Memphis except in so far as these rates are made upon differentials under the rates from St. Louis and East St. Louis to the same points in accordance with the differential scale prescribed in *Memphis Freight Bureau* v. *St. L., I. M. & S. Ry. Co.*, 39 I. C. C., 224.

5426. The rates on cotton from Arkansas and Missouri points to Memphis are unduly prejudicial to Memphis in so far as they exceed rates made on a differential of 10 cents per 100 pounds under the rates to St. Louis and East St. Louis contemporaneously in effect.

5427. The practices of the defendant carriers in granting certain concentration, compression, and reconsignment privileges at Arkansas points, St. Louis, and East St. Louis, while refusing such privileges at Memphis, are unduly prejudicial to Memphis, except as herein noted.

5428. The practices of the defendant carriers of making free delivery of cotton to warehouses and compresses at Arkansas points and East St. Louis while refusing to make such free delivery at Memphis are not unduly prejudicial to Memphis.

5429. The rates on rough rice from Arkansas stations to Memphis are unreasonable and unduly prejudicial to Memphis in favor of Arkansas points; reasonable rates prescribed for the future.

5430. The bridge tolls of the Kansas City & Memphis Railway & Bridge Co. between Memphis and Hopefield, Ark., have not been shown to be unreasonable.

5431. Complaint that "sundry rules, regulations, and exceptions to classifications, etc., in effect over the lines of the defendant carriers" between stations in Arkansas and between stations in Missouri are unduly prejudicial to Memphis in favor of the Arkansas and Missouri points, dismissed.

5432. Final order affirming the reasonableness of the present interstate class and commodity rates, except as herein noted, and requiring the discontinuance of the discrimination against interstate commerce, held in abeyance to

permit within a period of 30 days from the service of this report applications for further hearing and argument by any interested party deeming itself prejudiced by the order forecast herein.

Thompson, Ritchie & Co. v. *Vicksburg, Shreveport & Pacific Railway Co.* (39 I. C. C., 287.)

5433. Class and commodity rates between St. Louis and Kansas City, Mo., Memphis, Tenn., defined territories, Atlantic seaboard territory via Gulf and Atlantic ports, New Orleans, La., on interstate or foreign traffic, and points in the State of Texas, on the one hand, and Ruston, La., on the other, found unlawful to the extent stated in the report.

5434. Mileage class rates between Ruston and certain points in Arkansas on the Chicago, Rock Island & Pacific Railway, and mileage class rates applicable on interstate traffic between Ruston and other points in Louisiana on the Vicksburg, Shreveport & Pacific Railway, considered in connection with pending decision of other related proceedings.

5435. Portions of fourth section applications of defendants which seek authorization to maintain higher class and commodity rates from and to Ruston than from and to Shreveport, Alexandria, and Monroe, La., denied.

Shreveport Chamber of Commerce v. *Kansas City Southern Railway Co.* (39 I. C. C., 296.)

Upon complaint alleging that class rates applicable on traffic from Shreveport, La., to certain stations in Arkansas and Oklahoma on the lines of the St. Louis & San Francisco Railroad and the Texas, Oklahoma & Eastern Railroad are unreasonable and unduly prejudicial, *Held:*

5436. In view of pending decisions involving the readjustment of class rates in this southwestern territory, the reasonableness *per se* of the rates assailed will not be passed upon in this proceeding.

5437. The present rates between Shreveport and the stations in Arkansas and Oklahoma named in the complaint are unduly prejudicial to Shreveport as compared with the class rates applying between said stations and Texas jobbing points. Defendants required to remove the discrimination.

Memphis Freight Bureau v. *St. Louis, Iron Mountain & Southern Railway Co.* (39 I. C. C., 303.)

Upon complaint alleging that the rates charged by defendants for the transportation of lumber, logs, bolts, staves, and heading from points on their lines in Arkansas and Louisiana to Memphis, Tenn., are unreasonable and unduly prejudicial; *Held:*

5438. The rates of certain carriers on hardwood bolts and pine logs from points in Arkansas to Memphis should be revised to conform with rates on hardwood logs prescribed in *Vandenboom-Stimson Lumber Co.* v. *St. L., I. M. & S. Ry. Co.*, 38 I. C. C., 432.

5439. The rates on pine and cypress lumber to Memphis from points in southeastern Arkansas as compared with the rates on hardwood lumber from the same points to Memphis are unduly prejudicial.

5440. The rates on lumber to Memphis from certain stations on the Iron Mountain in Arkansas are in violation of section 4.

5441. The rates on lumber to Memphis from stations on the line of the Texas & Pacific Railway, Fouke, Ark., to Morley, La., inclusive, are unreasonable. Reasonable rates prescribed.

5442. With the foregoing exceptions the rates applied by defendants to the transportation of lumber from points in Arkansas and Louisiana to Memphis are just and reasonable.

5443. The rates on lumber between points in Arkansas as compared with the rates from Arkansas points to Memphis subject Memphis to undue and unreasonable prejudice and disadvantage.

5444. No reparation will be awarded.

Pittsburgh Steel Co. v. *Pittsburgh & Lake Erie Railroad Co.* (39 I. C. C., 312.)

5445. Upon the facts of record, *Held*, That the defendant, by its refusal to make a furnace allowance to the complainants while at the same time making such allowances to the complainants' competitors in the same industrial district, subjected the complainants to an unlawful disadvantage and prejudice.

Eastern Oregon Lumber Producers' Asso. v. *Chicago, Burlington & Quincy Railroad Co.* (39 I. C. C., 316.)

5446. Combination rates on lumber and articles taking lumber rates from eastern Oregon producing points on the Oregon-Washington Railroad & Navigation Co. to points on the Northern Pacific Railway and Great Northern Railway, and their connections in the states of Montana, North Dakota, South Dakota, Minnesota, and Nebraska, found to be unreasonable and unduly prejudicial, and joint rates based on differentials over the rates from Spokane, Wash., prescribed for the future.

Sand from Indiana stations. (39 I. C. C., 321.)

5447. Proposed increased rates on sand in carloads from stations in Indiana along the south shore of Lake Michigan to points within the Chicago, Ill., switching limits found not justified and suspended tariffs required to be canceled.

Florida Citrus Exchange v. *Atlantic Coast Line Railroad Co.* (39 I. C. C., 325.)

5448. Defendants' charge for transferring citrus fruit from ventilated box cars into refrigerator cars at Potomac Yard, Va., found to have been justified. Complaint dismissed.

Knoxville Overall Co. v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 330.)

5449. Rate of 48 cents charged for the transportation of less-than-carload shipments of cotton denims from Canton, Ga., to Knoxville, Tenn., found unreasonable to the extent that it exceeded a rate of 39 cents. Reparation awarded.

5450. Defendants' fourth section application for authority to continue a rate for the transportation of cotton denims from Atlanta, Ga., to Knoxville, Tenn., lower than the rates contemporaneously maintained on like traffic from Canton, Ga., and other intermediate points, denied.

Fish to New York. (39 I. C. C., 333.)

5451. Proposed increased rate for the transportation of fresh or frozen fish in less than carloads from Provincetown, East Brewster, and North Truro, Mass., to Harlem River, N. Y., justified.

Templeton & Sons v. *Chicago, Indiana & Southern Railroad Co.* (39 I. C. C., 335.)

5452. Certain carloads of wheat shipped from South Chicago, Ill., to Louisville, Ky., there milled and reshipped as products to points in Virginia, found upon rehearing, to have been overcharged. Refund directed.

Meeds Lumber Co. v. *Alabama Central Railway.* (39 I. C. C., 337.)

5453. Original decision denying retroactive effect to transit arrangements on lumber at Columbus, Miss., and Reform, Ala., the absence of which arrangements was not found unreasonable or unjustly discriminatory, affirmed on rehearing. Complaints dismissed.

Lehigh Valley Coal Sales Co. v. *Lehigh Valley Railroad Co.* (39 I. C. C., 339.)

5454. Reparation on account of services performed by complainant in connection with the transfer of interstate shipments of coal from open cars to box cars at Buffalo, N. Y., denied.

West Salem Canning Co. v. *Chicago & North Western Railway Co.* (39 I. C. C., 341.)

5455. Rate charged on canned peas, in packages, in carloads, from West Salem, Wis., to St. Paul and Minneapolis, Minn., found unreasonable and unjustly discriminatory to the extent that it exceeded 18 cents per 100 pounds. Reparation awarded.

5456. Defendants authorized to continue rates on canned peas in packages, in carloads, from La Crosse, Wis., to St. Paul which are lower than those contemporaneously maintained from West Salem and intermediate points, provided the present rates from the intermediate points are not exceeded and that the rates from said intermediate points do not exceed the lowest combination.

Utah Wholesale Grocery Co. v. *Norfolk & Western Railway Co.* (39 I. C. C., 345.)

5457. Rate charged for the transportation of a carload of peanuts from Suffolk, Va., to Provo, Utah, not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Sprouse & Son v. *Northern Pacific Railway Co.* (39 I. C. C., 347.)

5458. Charges collected for the transportation of mechanically burnt pyrographic wooden novelties from New Chicago, Ind., to Tacoma, Wash., found to have been unreasonable to the extent that they exceeded the charges that would have accrued at one and one-half times the first-class rate. Reparation awarded.

Union Sulphur Co. v. *Baltimore & Ohio Railroad Co.* (39 I. C. C., 349.)

5459. Increased rates on crude sulphur and brimstone from Atlantic ports to points in central freight association territory found justified.

5460. That portion of Fourth Section Application No. 1772 for authority to continue rates on brimstone and crude sulphur from Baltimore, Md., to Cheboygan, Mich., which are lower than the rates contemporaneously applicable on like traffic to Alpena, Mich., and other intermediate points on the Detroit & Mackinac Railway, denied.

Pillsbury Flour Mills Co. v. *Great Northern Railway Co.* (39 I. C. C., 353.)

5461. Rate charged for the transportation of durum wheat in carloads from Duluth, Minn., to Anoka, Minn., not found unreasonable. Complaint dismissed.

Pulp & Paper Manufacturers Traffic Asso. v. *Belt Railway Co. of Chicago.* (39 I. C. C., 360.)

5462. Rates for the transportation of sulphur in carloads from Sulphur Mines, La., to points in Wisconsin and the upper peninsula of Michigan not shown to be unreasonable or unjustly discriminatory. Complaint dismissed.

City of Milwaukee v. *Chicago, Milwaukee & St. Paul Railway Co.* (39 I. C. C., 363.)

Upon complaint by the city of Milwaukee that the rates on anthracite coal in carloads from Pennsylvania mines to Milwaukee are unreasonable and unduly discriminatory; *Held:*

5463. That neither the rates all rail nor those via the car ferries across Lake Michigan have been shown to be unreasonable or to discriminate unduly against Milwaukee.

5464. That the across lake rate for local delivery at Milwaukee, which is 25 cents higher than the proportional across-lake rate to Milwaukee on traffic destined beyond, has not been shown to discriminate unduly against Milwaukee. Complaint dismissed.

Lumber from Michigan points. (39 I. C. C., 367.)

5465. Upon rehearing the conclusions stated in the former report so modified as to permit respondents to readjust rates to Toledo in order to eliminate certain inequalities and discriminations. Proposed increased rates to other points found to be not justified and the same required to be withdrawn.

Reynolds Tobacco Co. v. *Abilene & Southern Railway Co.* (39 I. C. C., 371.)

5466. Requirements of the carriers throughout the country that fiber-board, pulpboard, and strawboard packages of cigarettes shall be strapped and sealed, or fastened with staples or stitched with wire at all openings, or subjected to other such requirements, in order to entitle them to the first-class rate, found unreasonable and unjustly discriminatory.

5467. Requirements that wooden boxes of cigarettes shall be strapped, corded, and sealed to entitle them to the first-class rate, and the requirement of the western classification that fiber-board packages of cigarettes shall have a united outside measurement of not less than 30 inches, not shown to be unreasonable or unjustly discriminatory.

Bituminous coal to Mississippi Valley territory. (39 I. C. C., 378.)

5468. Distance scale established in the original report, 36 I. C. C., 401, 412, modified to permit the establishment of relative rates from mines in Illinois, Kentucky, and Alabama.

5469. Carriers authorized to continue rates on coal from mines in Alabama to Greenville and Vicksburg, Miss., and Slidell, La., lower than rates to intermediate points.

5470. Order respecting rates from mines in Illinois, Kentucky, and Tennessee to junction points in Tennessee and Kentucky modified.

5471. Order respecting rates from Brilliant and Blocton, Ala., to Kosciusko, Miss., modified.

Drake Marble & Tile Co. v. *New York, Ontario & Western Railway Co.* (39 I. C. C., 392.)

5472. Rates on marble from New York, N. Y., and Baltimore, Md., to St. Paul, Minn., and from Knoxville, Tenn., and neighboring points to St. Paul and Kansas City, Mo., not found unreasonable or unjustly discriminatory.

5473. Departures from rule of the fourth section so far as not already corrected are authorized.

5474. Prayer for joint rates on marble from Knoxville to St. Paul and Kansas City denied, the present through rates based upon the Ohio and Mississippi river combinations not appearing to be open to valid objection.

Henderson Cotton Mills v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 399.)

5475. Upon complaint that rates on cotton piece goods from Henderson, Ky., to Boston, Mass., Norwich, Conn., Providence, R. I., New York, N. Y., Baltimore, Md., and other points in trunk line territory, are unreasonable and unjustly discriminatory; *Held*, That the rates complained of are not shown to be unreasonable or otherwise in violation of the act. Complaint dismissed. Fourth section relief denied.

Ludowici-Celadon Co. v. *Elgin, Joliet & Eastern Railway Co.* (39 I. C. C., 407.)

5476. Charges collected for the transportation of two carloads of roofing tile and accessories from Chicago Heights, Ill., to Daytona, Fla., found to have been unlawful. Reparation awarded.

North State Lumber Co. v. *Southern Railway Co.* (39 I. C. C., 409.)

5477. Carload of lumber shipped from Ore Hill, N. C., to New York, N. Y., not found to have been misrouted. Complaint dismissed.

Jacob Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 411.)

5478. Rates applied by the defendants on less-than-carload shipments of women's untrimmed hats from points east of the Missouri River to San Francisco, Cal., found to have been in excess of the rates legally applicable.

Peabody Coal Co. v. *Chicago & Eastern Illinois Railroad Co.* (39 I. C. C., 415.)

5479. Following *Appalachia Lumber Co.* v. *L. & N. R. R. Co.*, 25 I. C. C., 193, reparation denied on certain carload shipments of bituminous coal from Marion, Ill., to Cedar Rapids, Iowa. Complaint dismissed.

South St. Joseph Live Stock Exchange v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 417.)

5480. Defendants' rate of 18½ cents per 100 pounds for the transportation of fresh meat, packing-house products, and green salted hides in carloads from St. Joseph, Mo., to St. Louis, Mo., for local delivery and for beyond, and their rate of 23½ cents to Chicago, Ill., for local delivery and for beyond, not found to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Drake Marble & Tile Co. v. *Chicago Great Western Railroad Co.* (39 I. C. C., 422.)

5481. Rates charged by defendants for the transportation of building stone in carloads from St. Paul, Minn., to Kansas City, Mo., found to have been unlawful. Reparation awarded.

5482. Defendants' class C rate of 23 cents per 100 pounds for the transportation of straight or mixed carload shipments of dressed building marble and polished building marble or mixed carload shipments of dressed or polished building marble and dressed or polished building stone from St. Paul, Minn., to Kansas City., Mo., not found unlawful or unreasonable.

Interstate Salt Co. v. *Wabash Railroad Co.* (39 I. C. C., 426.)

5483. Prayer for reparation on shipments of salt from Michigan and Ohio salt fields to points in Nebraska, Kansas, and Colorado denied.

5484. Damage, if any, resulting from unjust discrimination in rates is not always measurable by the exact difference in which the rates are found to be unduly preferential or unjustly discriminatory. It may be more or less. The fact of damage attributable to the undue or unreasonable prejudice or advantage complained of and the amount of such damage must both be proved. *Penna. R. R. Co.* v. *International Coal Co.*, 230 U. S., 184; *New Orleans Board of Trade* v. *I. C. R. R. Co.*, 29 I. C. C., 32.

Goldcamp Mill Co. v. *Norfolk & Western Railway Co.* (39 I. C. C., 433.)

5485. Defendant's rates on grain, grain products, and hay in carloads and less than carloads from Ironton, Ohio, to points on defendant's line in West Virginia, Naugatuck to Bluefield, inclusive, found to be unreasonable. Reasonable maximum rates prescribed for the future. Reparation denied.

Boardman Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 445.)

5486. Finding in original report, unreported, that complainants had been overcharged on shipments of gas cooking stoves in carloads from various points east of the Missouri River to San Francisco, Cal., and were entitled to reparation, reversed on rehearing, and claim for reparation denied.

Wilkes & Co. v. *Alabama Great Southern Railroad Co.* (39 I. C. C., 447.)

5487. Claim for reparation on 26 carloads of blackstrap molasses shipped from Mobile, Ala., to Nashville, Tenn., dismissed because complainant has not proven that it was damaged by the payment of a rate which was found to be unduly prejudicial.

Brush Creek Mining & Manufacturing Co. v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 449.)

5488. Carload rates of the Cumberland Railroad and the Louisville & Nashville Railroad on coal from mines on the Cumberland Railroad to the northwest and the southeast found not to be discriminatory because they exceed group rates of the Louisville & Nashville Railroad to and from the same territories from and to mines on that road, but found to be unreasonable to the extent that they exceed such group rates by more than 5 cents per ton, and the defendants required to publish rates on that basis. Reparation denied.

5489. Rates on inbound supplies to mines on the Cumberland Railroad not found to be unreasonable or discriminatory.

Snow Lumber Co. v. *Raleigh, Charlotte & Southern Railway Co.* (39 I. C. C., 456.)

5490. On rehearing, rates on lumber in carloads from Norman, N. C., to points north and east of Virginia cities found unduly prejudicial as compared with the rates from Carthage, N. C., and other points in the same vicinity. Reparation denied.

Hessig-Ellis Drug Co. v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 459.)

5491. Rates from various points of origin on whisky and beer to Memphis, Tenn., and on bottled whisky to Helena, Ark., not found unreasonable or unjustly discriminatory, except to the extent that joint rates on whisky in wood from New York, N. Y., and Baltimore, Md., to Memphis, Tenn., exceeded the aggregates of intermediate rates contemporaneously in effect. Reparation awarded where joint rates exceeded the aggregates of intermediate rates.

5492. Fourth section applications for authority to charge lower rates on beer and whisky from New York, N. Y., and Baltimore, Md., to Helena, Ark., than to Memphis, Tenn., denied.

Stearns & Culver Lumber Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (39 I. C. C., 470.)

5493. Charges collected on shipments of various commodities from points north of the Ohio River to Milton, Fla., found unlawful to the extent that they exceeded the aggregate of the rates to and from Pensacola, Fla. Reparation awarded.

Bagdad Land & Lumber Co. v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 473.)

5494. Finding that the rates charged for the interstate transportation of turpentine stills and fixtures, turpentine in tanks, turpentine cups, and dip barrels

from Paxton, Fla., to Milton, Fla., and of railroad rails, trestle timbers, spikes, and angle bars from Paxton, Fla., to Laurel Hill, Fla., were not unreasonable, affirmed on rehearing.

Zelnicker Supply Co. v. *Chicago, Rock Island & Pacific Railway Co.* (39 I. C. C., 475.)

5495. Combination fifth-class rate of 34 cents per 100 pounds charged by defendants for the transportation of a carload of used steel car trucks from Howe, Okla., to Plainview, Ark., found unreasonable on rehearing to the extent that it exceeded 20 cents per 100 pounds. Former award of reparation increased.

American Cyanamid Co. v. *Central of Georgia Railway Co.* (39 I. C. C., 476.)

5496. Rate of $3.25 per net ton applied on shipments of imported cyanamid from Savannah and Brunswick, Ga., to Dothan, Ala., found to have been unreasonable and unjustly discriminatory to the extent that it exceeded $2.57 per net ton. Reparation awarded.

Kistler, Lesh & Co. v. *Alabama Great Southern Railroad Co.* (39 I. C. C., 478.)

5497. Rate of 42 cents per 100 pounds charged for the transportation of carload shipments of sulphuric acid in iron drums from Grasselli, Ala., to Morganton, N. C., found to have been unreasonable. Maximum rate of 20 cents per 100 pounds, minimum 40,000 pounds, prescribed for the future. Reparation awarded.

Minnesota & Ontario Power Co. v. *Chicago, St. Paul, Minneapolis & Omaha Railway Co.* (39 I. C. C., 481.)

5498. Rate of 70 cents per 100 pounds charged for the transportation of news print paper in carloads from International Falls, Minn., to Denver, Colo., found to have been unreasonable to the extent that it exceeded 61 cents. Reparation awarded.

Henderson v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (39 I. C. C., 483.)

5499. Charges collected for the transportation of two carloads of blackstrap molasses from Burguieres, La., to Kansas City, Mo., found to have been unreasonable. Reparation awarded.

Merriam & Millard Co. v. *Chicago & Alton Railroad Co.* (39 I. C. C., 485.)

5500. Following *Omaha Grain Exchange* v. *C. & A. R. R.*, 32 I. C. C., 597, reparation awarded on certain shipments of coarse grain and alfalfa feed from Omaha, Nebr., to Vandalia, Auxvasse, McCredie, Fulton, and New Bloomfield, Mo.

Clark Lumber Co. v. *Seaboard Air Line Railway.* (39 I. C. C., 487.)

5501. Shipment of lumber from Hoffman, N. C., to McDonoughs, N. J., not found misrouted and rate charged not found to have been unreasonable. Complaint dismissed.

Ford Manufacturing Co. v. *Cleveland, Cincinnati, Chicago & St. Louis Railway Co.* (39 I. C. C., 489.)

5502. Rate of 15 cents per 100 pounds charged by defendants for the transportation of four carloads of candle pitch from Ivorydale, Ohio, to South Bend, Ind., found to have been unreasonable to the extent that it exceeded the rate contemporaneously applicable on coal and gas house pitch, coal and gas house tar, and petroleum pitch and petroleum tar. Reparation awarded.

Colorado Fuel Co. v. *Missouri, Kansas & Texas Railway Co.* (39 I. C. C., 491.)

5503. Reconsigning and back-haul charges assessed on a carload shipment of coal from Hickory Canon, Colo., to Gould, Okla., found unlawful. Reparation awarded.

Burson Knitting Co. v. *Chicago, Indiana & Southern Railroad Co.* (39 I. C. C., 494.)

5504. Rate on undyed and unfinished cotton hosiery from Rockford, Ill., to Philadelphia, Pa., not shown to have been unreasonable. Complaint dismissed.

Oklahoma Cottonseed Crushers' Asso. v. *Missouri, Kansas & Texas Railway Co.* (39 I. C. C., 497.)

5505. Findings in original report, 35 I. C. C., 94, that the rates on cottonseed oil from Oklahoma producing points to Kansas City, Mo., and on cottonseed cake, meal, and hulls from the same producing points to points in other states are unjust, unreasonable, and unjustly discriminatory adhered to; mileage schedules of maximum rates proposed therein revised; and the revised schedules prescribed as just and reasonable maxima for the future.

Orgill Bros. & Co. v. *Nashville, Chattanooga & St. Louis Railway.* (39 I. C. C., 513.)

5506. Rate charged for the transportation of cast-iron dog irons in carloads from Rome, Ga., to Memphis, Tenn., found to have been unreasonable. Reparation awarded.

Sanguinetti v. *Union Pacific Railroad Co.* (39 I. C. C., 515.)

5507. Union Pacific Railroad Co. found to have misrouted a carload of potatoes transported from Masters, Colo., to Yuma, Ariz. Reparation awarded.

Lucke & Co. v. *Wabash Railroad Co.* (39 I. C. C., 517.)

5508. Switching charges in excess of the line-haul charges on brick from Attica, Ind., to Harvey, Ill., found to have been unlawfully collected.

Coal to Missouri stations. (39 I. C. C., 520.)

5509. Proposed increased rates on bituminous coal in carloads from mines on the Southern Railway in Illinois and Indiana to stations on the Chicago & Alton Railroad in Missouri have not been justified, and schedules under suspension ordered canceled.

Stonega Coke & Coal Co. v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 523.)

5510. Reasonable divisions to the Interstate Railroad out of the through rates involved fixed at 15 cents per ton on coal and 18 cents per ton on coke.

5511. The provisions of section 16–A of the act regarding the rehearing of cases by the Commission does not contemplate that the rehearing be completed and a supplemental report and order made before expiration of original order.

5512. Exhibits compiled by Commission's examiners of accounts, offered in evidence at a duly appointed hearing, without objection from interested parties, properly identified by the official stenographer and filed in the record along with all the other evidence in the case, are lawfully a part of the record.

5513. Rates fixed under federal authority must yield "just compensation," which comprehends a reasonable return upon the value of property devoted to public use.

5514. Where the traffic involved is only a portion of the traffic moving over the originating division, and only a small portion of the coal and coke traffic moving over the line, which, in turn, is only a small part of the entire coal and coke tonnage moving over the entire system, a claim that the rates on the traffic involved are confiscatory is not established until it be shown that the rates on the other traffic moving over the originating line are reasonably remunerative and that the revenue derived from the other coal and coke traffic moving over the line is adequate.

5515. Commercial competition a controlling factor in the adjustment of the rates here considered.

5516. Reasonable rates on coal from St. Charles and Appalachia are found herein to be such as do not exceed the rates contemporaneously in effect from Middlesboro-Jellico to the same destinations by more than the differential herein fixed. Reasonable coke rates for the future will be such as do not exceed $2.50 per ton to Chicago with proportionately scaled rates to other destinations involved.

5517. St. Charles included in Appalachia group and a differential from this group of 15 cents per ton over Middlesboro-Jellico rates on coal fixed. *Coal rates from Virginia mines*, 30 I. C. C., 635, modified.

5518. The Appalachia group rate to be applied from operations on the Interstate Railroad.

Williams Stave Co. v. *Louisiana Railway & Navigation Co.* (39 I. C. C., 553.)

5519. Charges collected for the transportation of 76 carloads of stave bolts from Louisiana points to Alexandria, La., for milling and reshipment over de-

fendant's line to interstate destinations, found to have been unreasonable. Reparation awarded.

Heider Manufacturing Co. v. *Chicago Great Western Railroad Co.* (39 I. C. C., 556.)

5520. Westbound rates on agricultural implements from Carroll, Iowa, and on iron water gates from Oskaloosa, Iowa, to Omaha, Nebr., in excess of eastbound rates contemporaneously applicable on the same commodities from Omaha to Carroll and to Oskaloosa, respectively, not found to have been unreasonable or unduly prejudicial. Complaint dismissed.

American Refining Co. v. *Texas & Pacific Railway Co.* (39 I. C. C., 559.)

5521. Reparation awarded on account of unreasonable charges collected by defendants for the transportation of a carload of petroleum cylinder stock from Okmulgee, Okla., to Amesville, La.

Monroe Grocer Co. v. *New York, New Haven & Hartford Railroad Co.* (39 I. C. C., 561.)

5522. Reparation awarded on account of unreasonable charges collected by defendants for the transportation of a carload of loaded shells and metallic cartridges from Bridgeport, Conn., to Monroe, La.

National League of Commission Merchants v. *Atlantic Coast Line Railroad Co.* (39 I. C. C., 563.)

5523. Estimated weight of 120 pounds per standard crate for shipments of cabbages from Coleman and Sumterville, Fla., to New York, N. Y., found unreasonable, and reasonable estimated weight prescribed for the future. Reparation awarded.

Forbes Manufacturing Co. v. *Lehigh Valley Railroad Co.* (39 I. C. C., 566.)

5524. Rate of $1.13 per 100 pounds charged for the transportation of a less-than-car-load shipment of iron wire cloth from Cortland, N. Y., to Hopkinsville, Ky., found unreasonable to the extent that it exceeded the aggregate of intermediate rates to and from Evansville, Ind. Reparation denied because complainant is not shown to have been damaged by the rate charged, and complaint dismissed.

Bonners Ferry Lumber Co. v. *Great Northern Railway Co.* (39 I. C. C., 568.)

5525. Petitions for rehearing denied, but former order herein modified.

Casey-Hedges Co. v. *Cincinnati, New Orleans & Texas Pacific Railway Co.* (39 I. C. C., 569.)

5526. Rate of 23 cents per 100 pounds charged by defendant for the transportation of certain iron and steel articles in carloads from Cincinnati, Ohio, to Chattanooga, Tenn., found to have been unreasonable to the extent that it exceeded 19 cents, minimum weight 36,000 pounds. Reparation denied.

Major Stave Co. v. *Memphis, Dallas & Gulf Railroad Co.* (39 I. C. C., 573.)

5527. Rate of 17½ cents per 100 pounds on oak and gum staves and heading in carloads from Arkadelphia and Ashdown, Ark., to Houston, Texas City, and Galveston, Tex., not found to be unreasonable.

5528. Charges collected for the transportation of certain shipments of oak staves and heading in carloads from Arkadelphia, Ark., to Texas City, found unreasonable to the extent that they exceeded the charges which would have accrued at a rate of 17½ cents per 100 pounds, and reparation awarded.

Grain transit rules at Buffalo. (39 I. C. C., 580.)

5529. Proposed cancellations of transit regulations at Buffalo, N. Y., Toledo, Ohio, Detroit, Mich., and various other points on lines of respondents, on grain when originating at stations on the lines of certain of the respondents' western connections, found not to have been justified.

Woolson Spice Co. v. *Pennsylvania Co.* (39 I. C. C., 583.)

5530. Defendants' refusal to include trap cars used by complainant within the terms of the so-called average agreement found to be without lawful tariff authority. Reparation awarded.

Slane Glass Co. v. *Virginia & Southwestern Railway Co.* (39 I. C. C., 586.)

5531. On rehearing, original decision affirmed and complaint dismissed.

City Ice Delivery Co. v. *Pere Marquette Railroad Co.* (39 I. C. C., 589.)

5532. Charge of $6 per car for the transportation of empty refrigerator cars from Toledo, Ohio, to Rose Center, Mich., for return loading with ice found to have been assessed without lawful tariff authority. Refund directed.

5533. Tariff rule providing a mileage charge for the transportation of empty refrigerator cars from the point at which such cars are available to the point at which they are to be loaded with ice for ensuing interstate movement condemned in its application to the movement of empty cars to Rose Center.

5534. Higher charge for the transportation of ice in refrigerator cars than for its transportation in ordinary equipment found proper, following *Mountain Ice Co.* v. *D., L. & W. R. R. Co.*, 15 I. C. C., 305; *Eagle Ice Co.* v. *C., M. & St. P. Ry. Co.*, 37 I. C. C., 250.

Settle & Co. v. *Alabama Great Southern Railroad Co.* (39 I. C. C., 592.)

5535. Joint rates on lumber from designated points of origin in the south to Madisonville, Ohio, within the corporate limits of Cincinnati, Ohio, but outside of the switching limits, are made on the basis of the rates to and from Cincinnati. Oakley, which is adjacent to Madisonville, is inside the switching limits of Cincinnati, and takes Cincinnati rates. The aggregates of the rates to Oakley and from Oakley to Madisonville are lower than the Cincinnati combinations. Higher rates to Madisonville than to Cincinnati not found unreasonable or unduly prejudicial to complainants. Present rates from Cincinnati and Oakley used in combination for through transportation to Madisonville not found unreasonable or unduly prejudicial, but found unlawful to the extent that they exceed the aggregates of intermediate rates to and from Oakley.

Detroit Stove Works v. *Wabash Railroad Co.* (39 I. C. C., 597.)

5536. Minimum weight applied by defendants on a carload of gas stoves from Detroit, Mich., to Marshall, Tex., found to have been unreasonable. Reasonable minimum weight prescribed for the future.

5537. Claim for reparation found to have been abandoned.

Reynolds Tobacco Co. v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 600.)

Complainants attack the rates on tobacco from local stations on the line of the Louisville & Nashville Railroad in central Kentucky to Winston-Salem and Reidsville, N. C., and South Boston, Martinsville, and Danville, Va., as unreasonable, unjustly discriminatory, and in violation of the fourth section of the act in that they exceed the rates from Cincinnati, Louisville, and certain central Kentucky junction points; *Held:*

5538. The Louisville & Nashville Railroad Co.'s Fourth Section Application No. 1952, in so far as by it authority is sought to continue rates on tobacco from Cincinnati and points in Kentucky to the named destinations which are lower than the rates contemporaneously applicable on like traffic from intermediate points on its line in Kentucky, should be denied.

5539. Rate of 45 cents per 100 pounds on tobacco in carloads from Richmond, Ky., to Reidsville found to have been unreasonable in so far as it exceeded a rate of 44 cents, and reparation awarded.

Bowie Lumber Co. v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (39 I. C. C., 609.)

5540. Defendants' rate on hewn cypress crossties in carloads from Bowie, La., to Eureka, Tex., found to be unreasonable to the extent that it exceeds the rate contemporaneously maintained on cypress lumber. Defendants required to maintain a rate on hewn cypress crossties not in excess of the rate contemporaneously applicable on cypress lumber.

Bon Marche v. *Chicago, Milwaukee & St. Paul Railway Co.* (39 I. C. C., 611.)

5541. Rate charged for the transportation of a spring delivery wagon from Chicago, Ill., to Seattle, Wash., found to have been in accordance with the lawfully published tariff and not to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Kath Co. v. *Chicago, Rock Island & Pacific Railway Co.* (39 I. C. C., 613.)

5542. Rate charged for the transportation of mussel shells in carloads from Muscatine, Iowa, to New York, N. Y., found unreasonable and reparation awarded.

Chattanooga Sewer Pipe & Fire Brick Co. v. *Central of Georgia Railway Co.* (39 I. C. C., 615.)

5543. Rate of 16.8 cents per 100 pounds charged by defendants for the transportation of hollow fireproof building tile in carloads from Chattanooga, Tenn., to Valdosta, Ga., not found unreasonable, unjustly discriminatory, or in violation of the rules of the fourth section. Complaint dismissed.

Coal to Cleburne, Tex., and other points. (39 I. C. C., 617.)

5544. Proposed increased rates on coal in carloads from Raton, and other points in New Mexico, to stations on the Trinity & Brazos Valley Railway from Cleburne, Tex., to Limestone, Tex., inclusive, have not been justified.

Lafayette Chamber of Commerce v. *Alabama & Vicksburg Railway Co.* (39 I. C. C., 619.)

5545. Present combination rate for the transportation of cement in carloads from Leeds, Ala., to Lafayette, La., found unreasonable and unjustly discriminatory. Establishment of joint rate via New Orleans, La., required.

Heinz Co. v. *Pere Marquette Railroad Co.* (39 I. C. C., 622.)

5546. Rates charged by defendants for the transportation of kraut brine in mixed carloads with kraut or with kraut and pickles from Saginaw, Mich., to various points in California, Washington, Colorado, Texas, and Oklahoma found unreasonable to the extent that they exceeded the rates contemporaneously in effect on kraut, or kraut and pickles, mixed, in carloads. Reparation awarded.

Bibb Brick Co. v. *Central of Georgia Railway Co.* (39 I. C. C., 625.)

5547. Charges on a carload shipment of iron articles from Macon, Ga., to Dayton, Ohio, were assessed on the basis of the rate applicable to brick trucks, knocked down. Complainant's contention that the shipments consisted of scrap iron, on which a lower rate applied, found not to be sustained. Complaint dismissed.

McKee & Bliven Button Co. v. *Illinois Central Railroad Co.* (39 I. C. C., 627.)

5548. Rate charged for the transportation of mussel shells in carloads from Merom, Ind., to Columbus Junction, Iowa, found to have been unreasonable to the extent that it exceeded the aggregate of intermediate rates to and from Palestine, Ill. Reparation awarded.

5549. Application for relief from rule applying to the aggregate of intermediate rates of the fourth section denied.

National Pickle & Canning Co. v. *Chicago, Burlington & Quincy Railroad Co.* (39 I. C. C., 629.)

5550. Rate of 10 cents per 100 pounds, minimum 30,000 pounds, charged for the transportation of pickles, catsup, and kraut in straight or mixed carloads from Keokuk, Iowa, to St. Louis, Mo., justified. Complaint dismissed.

Crunden-Martin Manufacturing Co. v. *Missouri Pacific Railway Co.* (39 I. C. C., 631.)

5551. Rate of $1.41 per 100 pounds legally applicable to the transportation of certain mixed carload shipments of wrapping paper and paper bags from St. Louis, Mo., to Gallup, N. Mex., not shown to have been unreasonable. Shipments found to have been overcharged. Reparation awarded.

Marshalltown Buggy Co. v. *Wabash Railroad Co.* (39 I. C. C., 633.)

5552. Complaint attacking defendants' rate on vehicle parts in the white in carloads from Macon, Mo., to Marshalltown, Iowa, dismissed.

5553. That portion of Fourth Section Application No. 1948 filed by W. H. Hosmer, agent, in which authority is asked to continue rates on axles from St. Louis, Mo., to Marshalltown, Iowa, lower than rates contemporaneously maintained from Macon and other intermediate points, denied.

Granby Mining and Smelting Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 635.)

5554. Rate charged by defendants for the transportation of three carloads of zinc ore from Magdalena, N. Mex., to East St. Louis, Ill., found to have been unreasonable to the extent that it exceeded the aggregate of intermediate rates contemporaneously in effect. Reparation awarded.

Lalance & Grosjean Manufacturing Co. v. *Long Island Railroad Co.* (39 I. C. C., 637.)

5555. Collection of charges on a shipment of stamped ware from Woodhaven, N. Y., to Los Angeles, Cal., loaded into two 36-foot cars instead of into one 50-foot car ordered by the shipper, on the basis of the carload rate and minimum for one car and the less-than-carload rate for the other not found unreasonable. Complaint dismissed.

Atlantic Lumber Co. v. *Atlantic Coast Line Railroad Co.* (39 I. C. C., 639.)

5556. Joint rate of 34 cents per 100 pounds charged for the transportation of a carload of lumber from Spring Hope, N. C., to Toronto, Ontario, found to have been unreasonable to the extent that it exceeded the aggregate of intermediate rates applicable to and from Norfolk, Va. Reparation awarded.

Memphis Freight Bureau v. *Illinois Central Railroad Co.* (39 I. C. C., 641.)

5557. Rate charged for the transportation of a carload of spokes in the white from New Orleans, La., to Jackson, Tenn., found unreasonable and reparation awarded.

Board of Trade of the City of Chicago v. *Ann Arbor Railroad Co.* (39 I. C. C., 643.)

Certain shipments of grain moved from country stations to Omaha, where transit was accorded. Representative grain was shipped from Omaha to Chicago, where the grain was again accorded transit and reshipped from Chicago to the Atlantic seaboard for export. Increased reshipping rates from Chicago became effective after the grain moved from the country station, but before it moved from Omaha. Rule 13 of Transit Grain Circular No. 17, I. C. C., No. 326, provides that "the through rate to be applied to transit grain shall be the lawfully published rate through from the original point of shipment to final destination in effect via the transit point at the time of initial shipment from point of origin applicable to the grain covered by inbound billing which these rules permit to be matched against outbound shipments," *Held:*

5558. The point of origin referred to in the rule is the country station from which the grain was first moved, and not the transit point from which the grain was reshipped to Chicago.

5559. Rule 13 of Milling and Malting Circular No. 13, I. C. C. No. 384, similarly interpreted.

American Enameled Brick & Tile Co. v. *Raritan River Railroad Co.* (39 I. C. C., 653.)

5560. Rates charged for the transportation of enameled brick in carloads from South River, N. J., to certain points in official classification territory and points west of the Mississippi River not found to have been unreasonable. Defendants authorized to refund certain overcharges.

5561. Rates applicable to the transportation of enameled brick in carloads from South River, N. J., to points in official classification territory found to be unjustly discriminatory to the extent that they exceed the rates applied by defendants on glazed terra cotta between the same points.

Virginia-Carolina Chemical Co. v. *Louisville & Nashville Railroad Co.* (39 I. C. C., 658.)

5562. Former finding that defendants' joint rate of 60 cents per 100 pounds on imported nitrate of soda from Pensacola, Fla., to Shreveport, La., was unreasonable to the extent that it exceeded the sum of the intermediate rates contemporaneously in effect to and from New Orleans, La., affirmed on rehearing. Reparation awarded.

Virginia-Carolina Chemical Co. v. *Seaboard Air Line Railway.* (39 I. C. C., 660.)

5563. Complaint alleging that charges were illegally assessed on certain carloads of imported kainit, shipped from Fernandina, Fla., to points within the same state on the basis of the rates applicable to interstate or foreign shipments of kainit instead of on the basis of the Florida state rates, which were lower, dismissed for lack of proof.

Forest Lumber Co. v. *Morgantown & Kingwood Railroad Co.* (39 I. C. C., 661.)

5564. Rate charged by defendants for the transportation of certain carloads of lumber from Rock Forge and various other points in West Virginia to Mc-

Keesport and numerous other points in Pennsylvania not shown to have been unreasonable. Complaints dismissed.

Cambridge Tile Manufacturing Co. v. *Atlantic Coast Line Railroad Co.* (39 I. C. C., 663.)

5565. Rate of $5.26 per net ton for the transportation of bulk clay in carloads from Edgar and Okahumpka, Fla., to Covington, Ky., not shown to have been unreasonable. Complaint dismissed.

5566. Fourth Section Application No. 703 denied to the extent that authority is asked in it to continue rates on clay from Edgar and Okahumpka, Fla., to Miamisburg, West Carrollton, Middletown, Hamilton, and Lockland, Ohio, lower than the rates contemporaneously applicable on like traffic to Covington, Ky., and other intermediate points.

Swift & Co. v. *Union Pacific Railroad Co.* (39 I. C. C., 665.)

5567. Rate of 27½ cents per 100 pounds for the transportation of bulk salt in carloads from Kansas producing points to Fort Worth and North Fort Worth, Tex., found to be unreasonable. Maximum rates prescribed for the future.

Seidel Lumber Co. v. *Missouri Pacific Railway Co.* (39 I. C. C., 670.)

5568. Rate legally applicable to the transportation of a carload of pine lumber from St. Louis, Mo., to Dundee, Ill., not shown to be unreasonable. Shipment found to have been overcharged. Reparation awarded.

Hubinger Bros. Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 672.)

5569. A rate of 80 cents per 100 pounds from Keokuk, Iowa, to Portland, Oreg., and north Pacific coast points on shipments of glucose in tank cars found just and reasonable. Reparation awarded for payment of a rate in excess thereof.

Concordia Commercial Club v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 675.)

5570. Rates on classes and certain commodities to Concordia, Kans., from St. Louis, Mo., and points taking same rates or rates based thereon found to be unreasonably prejudicial to Concordia to the extent that they exceed the rates contemporaneously maintained and applied on like traffic from the same points of origin to Salina, Kans.

5571. Rates on butter, eggs, and dressed poultry, in carloads, from Concordia to St. Louis proper and also when destined to points east of the western termini of the trunk lines found to be unreasonably prejudicial to Concordia to the extent that they exceed by more than 3 cents per 100 pounds the rates contemporaneously maintained from Washington, Kans., to the same destinations.

5572. Rates on canned goods from Louisville, Ky., and Baltimore, Md., to Concordia found to be unreasonably prejudicial to Concordia to the extent that they exceed rates from the same points of origin to Salina.

5573. Rates on certain commodities from New Orleans, La., Beaumont and Port Arthur, Tex., to Concordia, found to be unreasonably prejudicial to Concordia to the extent that they exceed the rates contemporaneously maintained to Salina by more than the amounts stated in the report.

Lumber from Louisiana points. (39 I. C. C., 688.)

5574. Proposed cancellation of joint through rates on yellow-pine lumber from producing points on the Louisiana Western Railroad, Lake Charles & Northern Railroad, and Morgan's Louisiana & Texas Railroad & Steamship Company to points on the Santa Fe system in Texas, found not justified.

Platts v. *New York, New Haven & Hartford Railroad Co.* (39 I. C. C., 690.)

5575. Effective in February, March, and April, 1915, defendants filed tariffs providing, in effect, that they would thereafter discontinue the absorption of bunker icing charges on shipments of oysters from the Atlantic seaboard to western points. Upon complaint that the resulting increased rates are unreasonable and unjustly discriminatory; *Held*, That the defendants have justified the increased charges on carload shipments of shucked oysters, but that the increased charges on shipments of shucked oysters in less than carloads, and of oysters in the shell in carloads, have not been shown to be reasonable. Allegation of unjust discrimination not sustained.

Wyeth Hardware & Manufacturing Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (39 I. C. C., 697.)

5576. Rates for the transportation of harness and saddlery, boxed, from St. Joseph, Mo., to the Atlantic and Gulf ports, for export, not shown to have been unreasonable or unjustly discriminatory.

Swift & Co. v. *Mobile & Ohio Railroad Co.* (39 I. C. C., 701.)

5577. Certain shipments of packing-house products and fresh meats in mixed carloads from North Fort Worth, Tex., and East St. Louis, Ill., to Columbus, Ga., were stopped at Montgomery, Ala., for partial unloading, and charges were collected on the basis of the carload rates to Montgomery plus the less-than-carload rates beyond. No stoppage in transit arrangement was then in effect; *Held*, following previous decisions, that in the absence of unjust discrimination transit arrangements will not be given retroactive effect. Complaint dismissed.

Traffic Bureau of the Sioux City Commercial Club v. *American Express Co.* (39 I. C. C., 703.)

5578. Rates for transportation by express between Sioux City, Iowa, and points in the state of South Dakota not shown to be unreasonable.

5579. The present relation of rates for transportation by express between Sioux City, Iowa, and points in the state of South Dakota, and between the same South Dakota points and Sioux Falls, Mitchell, Aberdeen, Watertown, and Yankton, S. Dak., gives an undue preference to Sioux Falls, Mitchell, Aberdeen, Watertown, and Yankton and results in undue and unreasonable prejudice and disadvantage to Sioux City. Defendants ordered to remove this unjust discrimination.

Swanson v. *Texas & Pacific Railway Co.* (39 I. C. C., 725.)

5580. Complaints alleging that specific commodity rates published in defendant southwestern lines' tariffs and charged on carload shipments of bananas, between May 15, 1911, and February 15, 1912, from New Orleans, La., to Dallas and certain other Texas destinations, were illegally collected because lower class rates were applicable under an alternative clause in the tariffs and under defendants' classification exceptions, dismissed, as the classification exception provisions did not include bananas.

Stoppage in transit of farm wagons. (39 I. C. C., 731.)

5581. Proposed cancellation of rules permitting the stopping in transit of carload shipments of farm wagons for the purpose of partial unloading in eastern trunk line territory justified.

Anderson-Tully Co. v. *Alabama & Vicksburg Railway Co.* (39 I. C. C., 734.)

5582. Former finding that the rate charged on certain carload shipments of box shooks from Vicksburg, Miss., to Port Arthur, Tex., which moved over the Vicksburg, Shreveport & Pacific Railway and connecting lines was unreasonable, but that the rate charged on shipments moving over the Yazoo & Mississippi Valley Railroad and connections was not shown to be unreasonable, affirmed on rehearing.

United Cigar Manufacturers Co. v. *Gulf, Colorado & Santa Fe Railway Co.* (39 I. C. C., 737.)

5583. Double first-class rating on bent "vitrolite" signs in less than carloads from Chicago, Ill., to points on defendants' lines in western classification territory and charges collected on specified shipments not found to have been unreasonable. Complaint dismissed.

Becker v. *Pere Marquette Railroad Co.* (39 I. C. C., 739.)

5584. The "reasonable time" within which consignees should have given orders for reconsignment at Milwaukee or Ludington so as to have avoided the charge for reconsignment extends from the day on which (passing) notice was mailed until noon of the second day thereafter.

5585. Reconsignment charges assessed between December 18, 1912, and February 9, 1913, should be refunded if orders for reconsignment were given prior to arrival of cars at Milwaukee or within the "reasonable time" prescribed.

5586. Reconsignment charges assessed at Ludington between February 9, 1913, and April 10, 1914, should be refunded if carrier failed to furnish passing notice at Toledo, or if complainant had given reconsignment orders within the "reasonable time," or prior to the arrival of the car.

5587. All demurrage assessed during period of controversy, December 18, 1912, to February 9, 1913, must be refunded.

5588. Demurrage charges, lawfully accruing and assessed from February 9, 1913, to April 10, 1914, must stand.

5589. Reconsignment charges at Milwaukee, subject to the finding as to "reasonable time," should be assessed between October 17, 1912, and December 17, 1912, inclusive.

Rowe Manufacturing Co. v. *Chicago, Burlington & Quincy Railroad Co.* (39 I. C. C., 744.)

5590. Western classification first-class rating applicable prior to November 1, 1913, to fence gates made of iron and wood, in less than carloads, found to have been unreasonable and unjustly discriminatory to the extent that it exceeded third class. Reparation awarded on shipments from Galesburg, Ill., to various interstate destinations.

Gunderson v. *Gulf & Ship Island Railroad Co.* (39 I. C. C., 747.)

5591. Under the defendant's rules governing the use of its wharf at Gulfport, Miss., vessels engaged in miscellaneous cargo service are, for reasons stated in the report, given preference in the assignment of space for loading over vessels engaged in the transportation of solid cargoes of lumber or other commodity. The complainant's bark *Edderside* refused, when first requested, to vacate temporarily for the benefit of another vessel, and for its refusal was denied space that later became available, until all other waiting vessels had been served. This action on the part of the defendant was not warranted by the rules and was unreasonable. The amount of the complainant's damage has not been sufficiently established upon this record to warrant an award of reparation.

5592. The lawfulness of purpose of the defendant's rules is not definitely passed upon in this proceeding, in view of the complainant's independent cause of action arising from their improper application. As now framed, the rules are indefinite and should be revised. They should also be filed with the Commission, subject to future review, if necessary, upon complaint.

5593. The record affords an unsatisfactory basis for determining who is entitled to the refund of demurrage that unreasonably accrued by reason of the *Edderside's* inability, during the period it was denied loading space, to take the lumber, which was the commodity here involved, from the defendant's cars.

5594. Cases held open for 30 days from the date of service of report; within which the complainants may petition, if they desire, for further hearing on the question of reparation.

Trexler Lumber Co. v. *Southern Railway Co.* (39 I. C. C., 753.)

5595. Complaints alleging that because of misrouting by defendants, unreasonable and unlawful charges were assessed for the transportation of various carloads of lumber shipped in 1910 and 1911 from various points in South Carolina and Georgia to points in New Jersey and New York, dismissed because not filed within two years after the causes of action accrued, nor within a reasonable time after notice to complainants that the claims could not be adjusted informally.

Kirk v. *Missouri, Kansas & Texas Railway Co.* (39 I. C. C., 755.)

5596. Charges collected by defendants for the transportation of one carload of grease from Dallas, Tex., to Mobile, Ala., and exported to Havana, Cuba, found to have been illegal to the extent that they exceeded those which would have accrued at the legal rate of 18 cents per 100 pounds. Reparation awarded.

Indiana Transportation Co. v. *Grand Rapids, Holland & Chicago Railway.* (39 I. C. C., 757.)

5597. Upon petition for the establishment of through routes and joint rates and for a physical connection between petitioner's water line and defendant's rail line, and for proportional rates from the port to which traffic is brought by petitioner; *Held*, That the evidence fails to show such public necessity for the route and rates asked for as to warrant the exercise of the authority granted by the act to regulate commerce. Complaint dismissed.

Homer Lumber Co. v. *Southern Railway Co.* (39 I. C. C., 760.)

5598. Following *Davidson Lumber Co.* v. *S. Ry. Co.*, Docket No. 4903, unreported; *Held*, That a carload of pine lumber shipped from Blacksburg, S. C., to Jersey City, N. J., was not misrouted. Complaint dismissed.

Cheese Dealers Asso. v. *Atchison, Topeka & Santa Fe Railway Co.* (40 I. C. C., 1.)

5599. Charges assessed for heated car service in connection with shipments of cheese in carloads from points in Wisconsin to various interstate destinations not found unreasonable or unjustly discriminatory. Complaint dismissed.

Marquette Coal Co. v. *Pennsylvania Railroad Co.* (40 I. C. C., 4.)

5600. Shipments of coal from Bolivar, Pa., to West Albany Transfer, N. Y., for beyond, reconsigned to the Albany Southern Railroad at Stuyvesant Falls, N. Y., via Hudson, N. Y., were moved to Stuyvesant Falls through Hudson and Hudson Upper, N. Y. Defendants applied a rate of $1.90 per ton applicable from Bolivar to Hudson, declining to apply a rate of $1.90 applicable to Hudson Upper. The Albany Southern Railroad was thereby required to pay the Boston & Albany Railroad a contract charge of 15 cents per ton for moving the shipment on its account from Hudson to Hudson Upper and deducted 15 cents per ton from complainant's price. A rate of 60 cents per ton applied on coal from Hudson to Stuyvesant Falls and no rate from Hudson Upper; *Held*, That the legal rate was the combination rate of $2.50 per ton based on Hudson and that defendants legally applied the $1.90 rate to Hudson. Complaint dismissed.

Western Felt Works v. *Wabash Railroad Co.* (40 I. C. C., 7.)

5601. Official classification first-class rating on cotton shoddy garment padding in less than carloads from Chicago, Ill., to New York, N. Y., and charges for transportation accruing thereunder, not shown to have been unreasonable. Complaint dismissed.

Tulsa Traffic Asso. v. *Atchison, Topeka & Santa Fe Railway Co.* (40 I. C. C., 9.)

5602. Upon complaint that class rates maintained by defendants from New Orleans, La., to Tulsa, Okla., are unreasonable and unjustly discriminatory; *Held*, That the evidence fails to show that the rates are unreasonable or otherwise in violation of the act.

5603. Rates on certain commodities from New Orleans, La., and Galveston, Tex., not found unreasonable, but a readjustment by defendants of rates to certain Oklahoma points suggested.

5604. Applications of defendants for relief from the long-and-short-haul provision of the fourth section with respect to lower class and commodity rates from New Orleans to Joplin and Neosho, Mo., than are contemporaneously maintained, to Tulsa, Okla., granted.

Mowry Co. v. *New York, New Haven & Hartford Railroad Co.* (40 I. C. C., 16.)

5605. Rate of 13 cents per 100 pounds charged for the interstate transportation of apples from New Hartford, Granby, and Simsbury, Conn., and Southwick, Mass., to Milford, Mass., not found unreasonable or unjustly discriminatory. Complaint dismissed.

Produce Distributors Co. v. *Lehigh Valley Railroad Co.* (40 I. C. C., 17.)

5606. Charges collected for the transportation of a carload shipment of garlic packed in woven rattan baskets from New York, N. Y., to Seattle, Wash., found to have been without lawful tariff authority, but not found unreasonable or unjustly discriminatory.

Cairo Milling Co. v. *Mobile & Ohio Railroad Co.* (40 I. C. C., 20.)

5607. Rate charged by defendants on wheat transported from East St. Louis, Ill., milled in transit into flour at Cairo, and transported thence to Port Chalmette, La., for export, found unreasonable to the extent that it exceeded the rate contemporaneously applicable on flour from and to the same points, for export, plus one-half cent per 100 pounds. Reparation awarded.

Spaulding Elevator Co. v. *Canadian Pacific Railway Co.* (40 I. C. C., 22.)

5608. Rate of 30.3 cents per 100 pounds charged for the transportation of two carloads of oats from Assiniboia, Saskatchewan, Canada, to Warren, Minn., found to have been unlawful. Tariff rate of 29.8 cents per 100 pounds found to have been unreasonable. Reparation awarded.

State Corporation Commission of Virginia v. *Chesapeake & Ohio Railway Co.* (40 I. C. C., 24.)

Upon the facts of record, *Held:*

5609. Defendants' class rates from the Virginia cities to points in eastern North Carolina not shown to be unreasonable either in themselves or relatively.

5610. Such rates not shown to unjustly discriminate against the Virginia cities or to unduly favor Cincinnati and Louisville. Complaint dismissed.

Reopening certain fourth section applications. (40 I. C. C., 35.)

5611. Order respecting Fourth Section Applications Nos. 205, 342, 343, 344, 349, 350, and 352 rescinded, effective September 1, 1916, in so far as it affords to the carriers any greater degree of relief from the provisions of the fourth section on schedule C articles than is afforded by Fourth Section Order No. 124 of April 30, 1915, respecting what are designated as schedule B commodities described in *Commodity rates to Pacific coast terminals*, 34 I. C. C., 13.

5612. Order respecting Fourth Section Application No. 10336 rescinded, effective September 1, 1916.

5613. Orders respecting Fourth Section Applications Nos. 9813, 10110, 10126, 10155, 10186, and 10189 rescinded, effective September 1, 1916.

Jefferson Lumber Co. v. *Mobile & Ohio Railroad Co.* (40 I. C. C., 43.)

5614. Reparation awarded on account of unlawful charges collected for the transportation of two carloads of lumber from Carloss Spur, Ala., to Chicago, Ill., and Indianapolis, Ind.

Providence Fruit & Produce Exchange v. *Minneapolis, St. Paul & Sault Ste. Marie Railway Co.* (40 I. C. C., 45.)

5615. Carload rate on butter from Minneapolis, Minn., to Providence, R. I., not found unreasonable or unjustly discriminatory. Complaint dismissed.

Grain to Arkansas points. (40 I. C. C., 49.)

5616. Proposed cancellation of joint rates on grain in carloads from points in Kansas and Missouri on the St. Louis & San Francisco Railroad by way of Bridge Junction, Ark., to points in Arkansas on the Chicago, Rock Island & Pacific Railway justified in part. Schedules under suspension ordered canceled but without prejudice to respondents' right to file a new tariff conforming to the findings herein.

Western Grocer Co. v. *Baltimore & Ohio Railroad Co.* (40 I. C. C., 53.)

5617. Class rates applied on certain carload shipments of peanuts from Virginia points to Marshalltown, Des Moines, and Waterloo, Iowa, found to have been reasonable. Complaint dismissed.

Swift & Co. v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 56.)

5618. Rate charged for the transportation of phosphate rock in carloads from Mount Pleasant, Tenn., to Chicago, Ill., found not unreasonable or unduly prejudicial. Past discrimination not shown to have been injurious and complaint dismissed.

Nashville Lumbermen's Club v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 59.)

5619. Rates and regulations applied to the transportation of hardwood lumber shipped to Nashville, Tenn., and subsequently reshipped to points north of the Potomac and Ohio rivers, not found unreasonable or unduly discriminatory. Complaint dismissed.

American Woods Corporation v. *Southern Railway Co.* (40 I. C. C., 63.)

5620. Rate of 23 cents per 100 pounds charged for the transportation of two carloads of lumber from Statesville, N. C., to Jersey City, N. J., found unlawful to the extent that it exceeded 22½ cents. Reparation awarded.

5621. A carload shipment of lumber from Elkin, N. C., to New York, N. Y., found to have been misrouted. Reparation awarded.

5622. Certain carload shipments of lumber from points in North Carolina to Jersey City and Newark, N. J., New York and Brooklyn, N. Y., and New Haven, Conn., found not misrouted.

Curl v. *San Pedro, Los Angeles & Salt Lake Railroad Co.*

5623. Refusal of defendant to honor the return portion of a round-trip ticket for transportation from Los Angeles, Cal., to Salt Lake City, Utah, not found unreasonable. Defendant directed to refund an overcharge of $10 and complaint dismissed.

Hunt-Helm-Ferris & Co. v. *Ann Arbor Railroad Co.* (40 I. C. C., 67.)

5624. Rates on iron and steel articles from Harvard, Ill., to destinations in central freight association territory, which defendants have adjusted on a basis

satisfactory to complainant, not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Bristol Door & Lumber Co. v. *Southern Railway Co.* (40 I. C. C., 69.)

5625. Reparation awarded on account of unreasonable charges collected for the transportation of a mixed carload of doors, balusters, moldings, rough lumber, dressed lumber, medicine cabinets, and panel backs from Bristol, Tenn.-Va., to Passaic, N. J.

Du Pont de Nemours Powder Co. v. *Maine Central Railroad Co.* (40 I. C. C., 71.)

5626. Rate of 17 cents per 100 pounds charged by defendants for the transportation of box shooks in carloads, from Smiths Mills, Me., to Newbridge, Del., found to have been unreasonable to the extent that it exceeded 15 cents. Reparation awarded.

Iowa-Dakota Grain Co. v. *Illinois Central Railroad Co.* (40 I. C. C., 73.)

5627. Upon complaint that the rates charged by defendants on corn from interior Iowa points to Council Bluffs, Iowa, on interstate traffic, were unreasonable to the extent that they exceeded the rates contemporaneously applicable on like intrastate traffic and unduly prejudiced complainants to the advantage of shippers having elevators at Council Bluffs; *Held*, That the interstate rates are not shown to have been unreasonable, and that the alleged discrimination was due entirely to the failure of defendants to collect their legal rates on interstate shipments of corn stored in transit at Council Bluffs.

Moore Granite & Monumental Works v. *Illinois Central Railroad Co.* (40 I. C. C., 77.)

5628. Rate charged for the transportation of portions of two shipments of granite monuments and parts from Barre, Vt., to Hillside, Ill., not shown to have been unreasonable. Unjust discrimination previously existing found to have been removed, and complaint dismissed.

Woodson & Graves v. *Virginian Railway Co.* (40 I. C. C., 80.)

5629. Rate charged for the transportation of certain carload shipments of lumber from Wilmington, N. C., to Roanoke, Va., found to have been unreasonable. Reparation awarded.

Advance Lumber Co. v. *Atlanta, Birmingham & Atlantic Railroad Co.* (40 I. C. C., 82.)

5630. Demurrage charges at Birmingham, Ala., on five carloads of lumber shipped from Chelsea and other Alabama points to Avondale, Ala., milled there, and reshipped to interstate destinations, found to have been unlawfully assessed. Reparation awarded.

Peller v. *Pennsylvania Railroad Co.* (40 I. C. C., 84.)

5631. Demurrage and track storage charges on two carloads of burned enamel ware from Shady Side, Ohio, to Pittsburgh, Pa., found to have been improperly assessed pending the settlement of a dispute as to the rate legally applicable and subsequently properly assessed.

5632. General damages of the kind asked, including counsel fees, are not recoverable in proceedings before the Commission.

5633. Complaint dismissed.

Cherokee Lumber Co. v. *Atlantic Coast Line Railroad Co.* (40 I. C. C., 86.)

5634. Upon rehearing, claim for reparation on 17 carloads of lumber from Roseboro and Garland, N. C., to points north of the Virginia cities found barred by the statute of limitation and complaint dismissed.

Thorne, Neale & Co. v. *Wabash Railroad Co.* (40 I. C. C., 88.)

5635. Complainant, by its agent, misbilled three carload shipments of coal from Plymouth Junction, Pa., to Sharon, Ill., in error for Peoria; complaint that the shipments had been misrouted by the defendants, found to be without merit and dismissed.

Burlington Sand & Gravel Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (40 I. C. C., 90.)

5636. Rate charged for the transportation of sand and gravel in carloads from Burlington, Wis., by way of the Chicago, Milwaukee & St. Paul Railway to Chicago, found to be unduly prejudicial to the extent that it exceeds the rate contemporaneously maintained from other points in the so-called outer zone to the same destination.

Swift & Co. v. *Southern Railway Co.* (40 I. C. C., 93.)

5637. Claim for reparation not presented formally until more than two years after it accrued and more than six months after notice to the claimant that it could not be adjusted pursuant to informal presentation of it, held to have been abandoned.

Cement to Texas points. (40 I. C. C., 94.)

Respondent, the Kansas City, Mexico & Orient Railway of Texas, in connection with the St. Louis & San Francisco Railroad, participated in an 18½-cent rate on Portland cement from Ada, Okla., to the first three points on its line in Texas. It also participated in a 22½-cent rate to the same points from Harry's and Eagle Ford, Tex., in connection with the Texas & Pacific and Fort Worth & Denver City railways, the distance from the latter points being slightly less than from Ada. Moved by an attack threatened upon its intrastate rates unless the interstate rates from Ada were increased, and failing to obtain the assent of the St. Louis & San Francisco Railroad to such increases, the Kansas City, Mexico & Orient Railway of Texas directed the cancellation of rates on cement from Ada to all points on its line in Texas. Upon inquiry into the reasonableness of the proposed cancellation and of certain substitute rates suggested at the hearing; *Held:*

5638. That no evidence has been introduced tending to show that the proposed cancellation or the suggested substitute rates would be just or reasonable.

5639. That respondent's apprehension of reductions in its intrastate rates constitutes no justification for canceling or increasing interstate rates when the propriety of the resulting increased rates is not established.

Chicago Wool Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (40 I. C. C., 101.)

5640. Upon complaint that the rates in effect on wool, scoured, washed, combed, or brushed, and wool combing and wool noils, from Chicago, Ill., to points in Wisconsin, Minnesota, and Iowa, which generally are any-quantity rates governed by the western classification, are unreasonable and unjustly discriminatory; *Held,* That the commodities in question should be given lower rates and ratings when in carloads than when in less than carloads, and the carriers will be expected to establish promptly the carload ratings proposed by them.

Alberger Pump & Condenser Co. v. *Allegheny Valley Railway Co.* (40 I. C. C., 105.)

5641. Rates charged for the transportation of iron valves, with motors attached, in carloads, from Pittsburgh, Pa., to Bremerton, Wash., and in less than carloads from Pittsburgh to San Francisco, Cal., not shown to have been unreasonable or unduly prejudicial but weight charged for on the carload shipments found to have exceeded the correct scale weight and reparation awarded.

Grasselli Chemical Co. v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 109.)

5642. Rate charged for the transportation of a carload of sulphuric acid from Grasselli, Ala., to Cincinnati, Ohio, not found to have been unduly prejudicial. Complaint dismissed.

Connor Lumber & Land Co. v. *Akron, Canton & Youngstown Railway Co.* (40 I. C. C., 111.)

Rates on lumber in carloads from Wisconsin points along the shore of Green Bay to central freight association territory and other destinations found to be dominated by central freight association lines through their car ferry routes across Lake Michigan, and therefore; *Held:*

5643. That the lower rates from Green Bay, Oconto, Peshtigo, and Marinette, Wis., than from Laona, Wis., a point at least 60 miles inland by rail, are not shown to be unduly prejudicial to complainant or Laona.

5644. That Laona, as to shipments of lumber in carloads to the territory of destination, is included in the Wausau group, and that Wausau rates, as applied from Laona, are neither unjust nor unreasonable.

Byrd-Matthews Lumber Co. v. *Gainesville & Northwestern Railroad Co.* (40 I. C. C., 116.)

5645. Present adjustment of rates on lumber to Cincinnati, Ohio, and other Ohio River crossings from Helen, Ga., and from Murphy, N. C., and certain

other points in North Carolina on the lines of the Southern Railway Company found unduly prejudicial to Helen, and a reasonable relationship prescribed.

Globe Soap Co. v. *Abilene & Southern Railway Co.* (40 I. C. C., 121.)

5646. Rates for the transportation of cottonseed oil, soap stock, tank bottoms, and inedible tallow in carloads from points in Arkansas, Louisiana, Missouri, Oklahoma, and Texas to Cincinnati, Ivorydale, and St. Bernard, Ohio, representing increases made in June, 1915, considered. Because of defendants' reliance upon *The Five Per Cent Case*, 32 I. C. C., 525, case held open for further hearing.

Illinois grain to Chicago. (40 I. C. C., 124.)

5647. Grain originating in Illinois, shipped locally intrastate to Chicago, there sold, and subsequently shipped all rail under local rates, or via lake, to interstate destinations, is subject to the local intrastate rates from points of origin to Chicago.

5648. Grain originating in Illinois, moving interstate to Chicago via the Elgin, Joliet & Eastern Railway, unloaded into elevators at Chicago, and subsequently shipped via lake under independent water line rates or charges, is subject to the local interstate rates from points of origin to Chicago.

Nashville Abattoir, Hide & Melting Asso. v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 134.)

5649. Defendant's refusal to deliver and receive carload shipments of live stock at complainant's private siding in Nashville, Tenn., found not to be unreasonable or unjustly discriminatory.

Ashtabula-Port Maitland car-ferry service. (40 I. C. C., 143.)

Upon application of the Michigan Central Railroad Co. under the provisions of section 5 of the act to regulate commerce, as amended by the Panama Canal act, to institute a boat-line service between Ashtabula, Ohio, a south bank port on Lake Erie, and Port Maitland, Ontario, a north bank port on said lake, in which said petitioner will have an interest, *Held:*

5650. That by reason of the interownership of stock existing between the several railroads here involved, which furnish an all-rail route between the ports mentioned via which joint through rates are applicable, it is possible for the petitioner as a party to such through routes to compete with the proposed boat line in which it will have an interest within the meaning of the act.

5651. Upon the facts of record the proposed boat-line service will be in the public interest and of advantage to the convenience and commerce of the people and will neither exclude, prevent, nor reduce competition on the route by water under consideration, if properly operated.

Chattanooga Implement & Manufacturing Co. v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 146.)

5652. Upon the record, *Held*, That no showing has been made for requiring the defendants to apply over other routes the rates on pig iron from Ironaton and Shelby, Ala., to Chattanooga and Boyce, Tenn., at present applicable over the Louisville & Nashville and Tennessee, Alabama & Georgia railroads.

5653. Reparation denied except upon one misrouted shipment shown of record.

Bartlett Hayward Co. v. *Baltimore & Ohio Railroad Co.* (40 I. C. C., 151.)

5654. Charges collected by defendants for the transportation of various carload shipments of structural steel, lumber, and contractors' outfits from Baltimore, Md., to Grayland, Ill., found unlawful to the extent that they exceeded the charges that would have accrued at the flat rates applicable to the respective shipments from Baltimore to Chicago, Ill. Charges collected on contractors' outfits from Grayland to Baltimore in excess of charges accruing at the flat Chicago to Baltimore rate which would have been accorded other users of the Knickerbocker Ice Co. private industry track found unjustly discriminatory. Reparation awarded.

Green & Son v. *Southern Railway Co.* (40 I. C. C., 157.)

5655. Rates charged for the transportation of oak wagon hounds in the rough in carloads from Mocksville, N. C., to Woodstock, Ontario, found to have been unreasonable to the extent that they exceeded the rates contemporaneously applicable on oak lumber from and to the same points. Reparation awarded.

Hutchinson Traffic Bureau v. *Atchison, Topeka & Santa Fe Railway Co.* (40 I. C. C., 160.)

5656. Present group rates on flour in carloads from central Kansas points to points in New Mexico not shown to be unreasonable or unjustly discriminatory. Complaint dismissed.

Williams Stave Co. v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (40 I. C. C., 165.)

5657. Charges collected for the transportation of seven carloads of stave bolts from Beggs, Dubuisson, Garland, and Stewart, La., to Whiteville, La., for milling and reshipment over defendant's line to Constable Hook, N. J., found to have been unreasonable and unduly prejudicial. Reparation awarded.

Portland Chamber of Commerce v. *Chicago, Milwaukee & St. Paul Railway Co.* (40 I. C. C., 167.)

5658. Defendants' baggage rules providing extra charges on pieces of baggage, any dimension of which exceeds 45 inches, not found to be unreasonable or unjustly discriminatory as applied to sample cases of brooms more than 45 inches long. Complaint dismissed.

Stimson v. *Southern Railway Co.* (40 I. C. C., 169.)

5659. Defendants' rate of 10 cents per 100 pounds for the interstate transportation of carload shipments of lumber from Huntingburg, Ind., to Shelbyville, Ind., not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

5660. Fourth Section Application No. 1548 denied to the extent that authority is sought in it to continue rates on lumber from Rockport, Rock Hill, Troy, Tell City, and Cannelton, Ind., to Shelbyville, Ind., which are lower than the rates contemporaneously applicable on like traffic from Huntingburg, Ind., and other intermediate points, to Shelbyville.

Lawlor Cycle Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (40 I. C. C., 171.)

5661. Rates charged for the transportation of motorcycles in less than carloads from Milwaukee, Wis., and Middletown, Ohio, to Lincoln, Nebr., found to have been unreasonable to the extent that they exceeded one and one-half times the first-class rates. Reparation awarded.

Sulzberger & Sons Co. v. *Minneapolis, St. Paul & Sault Ste. Marie Railway Co.* (40 I. C. C., 173.)

5662. Re-icing charge at Montgomery, Ala., on a less-than-carload shipment of cheese from Marshfield, Wis., to Pensacola, Fla., found to have been unreasonable. Reparation awarded.

Berry Coal & Coke Co. v. *Chicago, Rock Island & Pacific Railway Co.* (40 I. C. C., 175.)

5663. Rate charged on a carload of coal from Chicago, Ill., to Oakdale, Cal., not found to have been unreasonable. Complaint dismissed.

Robinson Clay Product Co. v. *Akron, Canton & Youngstown Railway Co.* (40 I. C. C., 177.)

5664. Carload shipment of sewer pipe from Akron, Ohio, to Chicago, Ill., found to have been misrouted. Reparation awarded.

Coal and coke from Bon Air, Tenn. (40 I. C. C., 180.)

5665. Over the protest of the Southern Railway Co. but acting under its concurrence, the Nashville, Chattanooga & St. Louis Railway reduced rates on bituminous coal from its Tennessee mines to Southern Railway stations in Georgia and changed the relationship between said mines and the Southern's Tennessee mines. The Southern withdrew its concurrence in such rates, necessitating their cancellation. The resulting combination rates held not to have been justified, but the Southern found to have justified increased rates in the amounts of those in effect prior to the reduction referred to.

Malone v. *New York Telephone Co.* (40 I. C. C., 185.)

5666. Telephone calls may be classified, and a through rate for one kind of service is not necessarily unreasonable merely because it exceeds an aggregate of intermediate rates for a different kind of service.

5667. Through "particular person" rate of $1.65 from Fluhsing, N. Y., to Canaan, N. H., composed of a rate of 15 cents for the first three minutes and 5 cents for each additional minute on calls from Flushing, N. Y., to New York City for beyond, and $1.50 for the first three minutes and 50 cents for each additional minute on calls from New York City to Canaan, N. H., not proved unreasonable by a hypothetical through rate of $1.55 between Flushing and Canaan composed of a 5-cent "two-number" rate from Flushing to New York City and a $1.50 particular person rate from New York City to Canaan.

5668. Through calls at combination rates require fewer terminal services than separate calls under the rates combined, and combination through rates that include charges for terminal service not performed are unreasonable.

5669. Reasonableness of contract provision under which service of complainant was discontinued not decided.

North Pacific Fruit Distributors v. *Northern Pacific Railway Co.* (40 I. C. C., 191.)

5670. A car rental charge of $5 per car per trip for the use of a refrigerator or insulated car, when furnished upon shipper's order, in the transportation of deciduous fruits from the northwest during the season when protection from frost may be necessary and when such protection is, by his choice, furnished by the shipper at his own risk, not found to have been unlawful or unjustly discriminatory. Complaint dismissed.

Export grain products from Missouri River points. (40 I. C. C., 195.)

During the season of navigation on the Great Lakes, respondents, in common with other carriers, maintain joint proportional rates from Missouri River cities to Norfolk and Newport News, Va., on grain products for export equal to the prevailing rate from the same points of origin via rail-lake-and-rail routes to Baltimore, Md. At the close of the season of navigation each year such rates are customarily withdrawn, leaving higher through rates in effect. The proposed withdrawal of these rates via respondents' lines having been suspended and investigation into the propriety and reasonableness thereof having been made, *Held:*

5671. That the rates which would result from the proposed withdrawal form part of a general adjustment of rates on grain and grain products exported through Atlantic and Gulf ports made in competition with rates to other ports.

5672. That the establishment of the higher rates would not be in contravention of the provisions of the fourth section of the act to regulate commerce and that the proposed withdrawal of the joint rates has been justified under the circumstances of this case.

The Missouri River-Nebraska Cases. (40 I. C. C., 201.)

5673. Class rates between Council Bluffs and Sioux City, Iowa, St. Joseph and Kansas City, Mo., and Atchison, Kans., and points in the state of Nebraska found to be unreasonable in so far as they exceed the scale of maximum class rates prescribed.

5674. The present relation of class rates between Council Bluffs and Sioux City, Iowa, St. Joseph and Kansas City, Mo., and Atchison, Kans., and points in the state of Nebraska, and between Omaha and other Nebraska cities and the same points in the state of Nebraska results in undue preference to Omaha and other Nebraska cities and subjects Council Bluffs, Sioux City, St. Joseph, Kansas City, and Atchison to undue and unreasonable prejudice and disadvantage.

5675. The present relation of classification ratings and exceptions thereto applicable to transportation between Council Bluffs and Sioux City, Iowa, St. Joseph and Kansas City, Mo., and Atchison, Kans., and points in the state of Nebraska, and between Omaha and the same points in the state of Nebraska results in undue preference to Omaha and other Nebraska cities and subjects Council Bluffs, Sioux City, St. Joseph, Kansas City, and Atchison to undue and unreasonable prejudice and disadvantage.

5676. Defendants ordered to cease and desist from the undue preferences and the undue and unreasonable prejudices and disadvantages found to exist.

New York storage. (40 I. C. C., 265.)

5677. Proposed increased charges for storage of domestic and export freight held at New York harbor points, found to have been justified.

Lumber from Louisiana points. (40 I. C. C., 268.)

5678. Proposed increased rates on lumber in carloads from Leesville and other points in Louisiana on the Kansas City Southern Railway to Galveston and intermediate points in Texas on the Gulf, Colorado & Santa Fe Railway, found not to have been justified and the schedules under suspension directed to be canceled.

Maine Central boat lines. (40 I. C. C., 272.)

5679. The continued operation by the Maine Central Railroad of the Bath Ferry and of the Penobscot and Frenchman's Bay boat lines found upon the facts of record not to be in contravention of the Panama Canal act.

Clay from Florida. (40 I. C. C., 275.)

5680. Proposed increased all-rail and rail-water-and-rail carload rates on kaolin clay from Edgar and Okahumpka, Fla., to points in central freight association territory, and certain points in Pennsylvania and West Virginia, found justified. Orders of suspension thereof vacated.

Export grain to Gulf ports. (40 I. C. C., 280.)

5681. Proposed changes in the routing of carload shipments of grain and grain products for export from points on the St. Louis & San Francisco Railroad found justified.

International Lumber Co. v. *Canadian Northern Railway Co.* (40 I. C. C., 283.)

5682. Certain carloads of lumber from Beaudette, Minn., to Sheboygan, Wis., and Belvidere, Ill., found to have been overcharged. Reparation awarded.

Rice from Texas and Louisiana. (40 I. C. C., 285.)

5683. Proposed increased rates on clean rice from producing points in Texas, Louisiana, and Arkansas, from New Orleans, La., from Gulf points, and from Memphis, Tenn., to interstate destinations, with certain exceptions, found justified.

5684. Proposed increased rates on rough rice and on rice products found not justified.

Kerr & Co. v. *Sand Springs Railway Co.* (40 I. C. C., 291.)

Upon complaint that rates for the transportation of glass fruit jars and jelly glasses in carloads from Sand Springs, Okla., to Pacific coast terminals and certain intermediate points are unreasonable *per se*, and that the relation of these rates to rates on the same articles from Muncie, Ind., Wheeling, W. Va., and Washington, Pa., to the same destinations is unduly preferential to complainants' competitors located at Muncie, Wheeling, and Washington; *Held:*

5685. That the rates from Sand Springs have not been shown to be unreasonable *per se*.

5686. That the relation of rates to the Pacific coast terminals here attacked is unduly prejudicial to complainants and unduly preferential of their competitors.

Lukens Lumber Co. v. *Atlantic Coast Line Railroad Co.* (40 I. C. C., 295.)

5687. Reparation awarded on account of unreasonable charges collected for the transportation of a carload of lumber from Jacksonville, Fla., to North Wales, Pa.

Delaware & Hudson boat lines. (40 I. C. C., 297.)

5688. The Delaware & Hudson Co. to the extent described and at the points named does or may compete with the steamers of the Lake Champlain Transportation Co. and of the Lake George Steamboat Co. within the meaning of the act. The service of the two lake lines, however, is in the interest of the public and is of advantage to the convenience and commerce of the people. Its continuance will neither exclude, prevent, nor reduce competition on the water routes in question and should be permitted.

Hides from Springfield. (40 I. C. C., 305.)

5689. Proposed increased rates on green salted hides in carloads from Springfield, Ohio, to Chicago, Ill., and Milwaukee, Wis., found not justified and suspended tariffs required to be canceled.

Young v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 308.)

5690. Rates charged by defendants for the transportation of various commodities from points in Michigan, Tennessee, Indiana, and Illinois to La Moure and Berlin, N. Dak., not shown to have been unreasonable. Complaint dismissed.

5691. Authority to continue class rates from Chicago, Ill., and Burlington, Iowa, to Edgeley, N. Dak., which are lower than those contemporaneously applicable from Chicago and Burlington to La Moure and Berlin, N. Dak., and other intermediate points, denied.

Galloway Coal Co. v. *Alabama Great Southern Railroad Co.* (40 I. C. C., 311.)

5692. Relative adjustment of carload rates on bituminous coal from mines in southern Illinois, western Kentucky, and northwestern Alabama to Memphis and other points in southwestern Tennessee not shown to be unduly prejudicial to mines in northwestern Alabama.

5693. Differentials in rates to common markets in favor of certain producing points can be prescribed only when discrimination can be found, and discrimination can be found only where the traffic from those points and from competing points moves all or a part of the way to the common markets over the rails of the same carrier.

5694. Relative adjustment of carload rates on coal from the same mines to Mississippi and Louisiana east of the Mississippi River found unduly prejudicial to mines in northwestern Alabama, but adjustment approved in *Bituminous coal to Mississippi Valley territory*, 39 I. C. C., 378, found remedial.

5695. Long established rate adjustments that accord competing producing districts located at different distances from common markets equal rates will not be disrupted unless substantial justice requires it. The interests of consumers must be considered as well as the interests of producers, and dissatisfied producers deprived of the natural advantage of location must establish actual injury as a result of the discrimination.

5696. Divisions of joint rates received by short lines in Mississippi on shipments of coal purchased by them for fuel not shown to be unduly prejudicial to mines in northwestern Alabama.

5697. Relative adjustment of carload rates on coal from the same mines to points in southwestern Arkansas, Louisiana west of the Mississippi River, and southeastern Texas not shown to be unduly prejudicial to mines in northwestern Alabama.

Eastern Shore of Virginia Produce Exchange v. *New York, Philadelphia & Norfolk Railroad Co.* (40 I. C. C., 328.)

5698. Upon complaint that rates on vegetables and berries from points in Accomac and Northampton counties, Va., to points in the states of Ohio, Indiana, Michigan, Illinois, Missouri, Wisconsin, and Iowa are unreasonable, unduly preferential, and in violation of the long-and-short-haul provision of the act; *Held*, That the rates assailed have not been shown to be unreasonable or unduly preferential. The conclusions here reached are without prejudice to any future action upon defendants' fourth section application. Complaint dismissed.

Port Huron & Duluth Steamship Co. v. *Pennsylvania Railroad Co.* (40 I. C. C., 335.)

5699. Divisions prescribed of joint rates applicable via routes formed by rail lines west of Duluth, Minn., the water line of the Port Huron & Duluth Steamship Co., the Grand Trunk Railway Co. of Canada, and the Pennsylvania Railroad Co. and certain of its connections.

National Society of Record Asso. v. *Aberdeen & Rockfish Railroad Co.* (40 I. C. C., 347.)

Upon complaint that the classifications, rates, rules, and regulations of the defendants applicable to the transportation of live stock in less than carloads are unjust, unreasonable, unduly discriminatory, and otherwise unlawful, *Held*, That—

5700. The minimum weights applied to such shipments are unreasonable in so far as they exceed the minima herein found reasonable.

5701. The standard or basic values limiting the liability of the carrier for animals so shipped are unreasonable in so far as they are less than the valuations herein found reasonable.

5702. Rates should not increase for increased value above the reasonable standard values by percentages in excess of 2 per cent for each 50 per cent or fraction thereof of value in excess of such standard.

5703. All provisions in the classifications and tariffs of defendants requiring shippers to furnish attendants with such shipments are unreasonable and should be canceled.

5704. Rates on less-than-carload shipments of live stock crated found unreasonable to the extent that they exceed rates contemporaneously maintained on like animals uncrated.

5705. Provisions of defendants' live-stock contracts will be considered in connection with the Commission's general investigation now pending, *In the matter of bills of lading*, Docket 4844.

Transit at Kansas points. (40 I. C. C., 358.)

5706. Proposed restriction of respondents' transit arrangement now in effect at Atchison and Leavenworth, Kans., on grain products and grain, drawn from Omaha and South Omaha, Nebr., and Council Bluffs, Iowa, and reshipped to Mississippi River and points east thereof, found to be justified under the circumstances of this case. Order of suspension vacated.

Procter & Gamble Distributing Co. v. *Alabama & Vicksburg Railway Co.* (40 I. C. C., 367.)

Upon complaint that rates on soap, soap powder, cleansing powder, and lard substitute from Ivorydale, Ohio, and St. Bernard, Ohio, suburbs of Cincinnati, Ohio, and Kansas City, Mo., and Kansas City, Kans., to points in the state of Louisiana are unreasonable, unjustly discriminatory, and constitute departures from the rules of the fourth section of the act; *Held:*

5707. That the finding of the Commission in *Through rates to points in Louisiana and Texas*, 38 I. C. C., 153, disposes of the allegations herein respecting the reasonableness of the rates involved and the allegations that they exceed the aggregate of the intermediate rates.

5708. That the matter of rates alleged to be in contravention of the long-and-short-haul rule of the fourth section be reserved for further consideration.

5709. That existing rates from Cincinnati unjustly discriminate against that point in favor of Chicago, Ill.

5710. That readjustments of rates in response to findings of the Commission in *Through rates to points in Louisiana and Texas* may make an order to remove discrimination unnecessary. Complaint dismissed without prejudice.

Procter & Gamble Distributing Co. v. *Alabama & Vicksburg Railway Co.* (40 I. C. C., 373.)

Upon complaint that through rates on lard substitute in carloads and less than carloads from Macon, Ga., to points in the state of Louisiana are unreasonable, unjustly discriminatory, and represent departures from the fourth section of the act, *Held:*

5711. That the finding of the Commission in *Through rates to points in Louisiana and Texas*, 38 I. C. C., 153, disposes of the allegations herein made respecting the reasonableness of the rates, their discriminatory character, and of the allegation that they exceed the aggregate of the intermediate rates.

5712. That the matter of through rates in contravention of the long-and-short-haul rule of the fourth section be reserved for further consideration, following *Procter & Gamble Distributing Co.* v. *A. & V. Ry. Co.*, *ante*, page 367. Complaint dismissed without prejudice.

Nashville Tie Co. v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 377.)

5713. Upon complaint that defendant's rates on crossties and switch ties from points on its Memphis line, its Clarksville & Princeton division, and its Clarksville Mineral branch, to Evansville, Ind., and Louisville, Ky., are unreasonable and unjustly discriminatory; *Held*, That the present rates are just and reasonable except where they represent increases made after this proceeding was submitted. As to the latter, no finding is made.

Charleston & Norfolk Steamship Co. v. Chesapeake & Ohio Railway Co. (40 I. C. C., 382.)

Upon complaint under subdivision (*c*) of section 6, as amended by the Panama Canal act of August 24, 1912, praying the establishment of maximum proportional rates by rail from Ohio River crossings to the port of Norfolk, Va.,

for use in connection with rates of complainant by the boat line which it proposes to operate from Baltimore, Md., and Norfolk to Charleston, S. C., *Held:*

5714. The Commission acts only by virtue of powers conferred by the Congress. The power invoked to establish maximum proportional rates is confined to rates "which apply only to traffic which has been brought to the port or is carried from the port by a common carrier by water."

5715. The complainant has never acquired or operated any vessel, transportation or terminal facility, or equipment; does not carry property; does not hold itself out to carry property and does not propose to carry property unless and until the Commission shall establish proportional rates by rail to Norfolk which do not exceed the limits indicated by complainant. It is therefore not a common carrier by water within the meaning of the statutory provision invoked. Complaint dismissed.

Pacific coast-Southwest lumber. (40 I. C. C., 387.)

5716. Proposed increased rates on lumber and lumber articles from points in Oregon, Washington, Idaho, Montana, and western Canada to points in New Mexico, Oklahoma, and Texas not justified.

Lath yarn from Auburn. (40 I. C. C., 395.)

5717. Proposed cancellation of commodity rates on fodder yarn, lath yarn, rope, and twine in carloads, and on fodder yarn and lath yarn in mixed carloads with agricultural implements from points in New York to points in New England and Canada found justified.

Forest products from Arkansas points. (40 I. C. C., 397.)

5718. Proposed cancellation of joint carload rates on lumber and on rough stave bolts from certain stations on the Blytheville, Leachville & Arkansas Southern Railroad to certain stations on the St. Louis & San Francisco Railroad justified.

Benjamin Electric Manufacturing Co. v. *Atchison, Topeka & Santa Fe Railway Co.* (40 I. C. C., 399.)

5719. Western classification less-than-carload rating applicable to electric light or lamp reflectors made of enameled iron, steel, or tin, in barrels or boxes, found unreasonable to the extent that it exceeds the ratings contemporaneously applicable under the same classification on less-than-carload shipments of sheet-iron enameled ware not otherwise indexed by name, nested solid, or nested but not solid, in barrels or boxes.

Waddell-Williams Lumber Co. v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (40 I. C. C., 402.)

5720. Charges collected for the transportation of lumber from Morgan City, La., to Port Arthur, Tex., not shown to have been unreasonable. Complaint dismissed.

United States v. *Alabama & Vicksburg Railway Co.* (40 I. C. C., 405.)

5721. First-class rating provided in southern classification on postal cards, envelopes, and newspaper wrappers, stamped, when shipped for the account of the Government on Government bills of lading in cars protected by Government locks and seals, minimum weight 30,000 pounds, found just and reasonable and prescribed as a reasonable maximum rating in official and western classification territories.

Pittsburgh & Ohio Mining Co. v. *Baltimore & Ohio Railroad Co.* (40 I. C. C., 408.)

5722. Demurrage charges assessed by defendant on coal held in cars for transshipment at Lorain, Ohio, not shown to be unreasonable or unjustly discriminatory. Complaint dismissed.

Bancroft & Sons Co. v. *New York, New Haven & Hartford Railroad Co.* (40 I. C. C., 411.)

5723. Present rates on cotton piece goods in bales from producing points in New England to Rockford and Kentmere, Del., not found to be unreasonable; the latter points, however, are subjected to undue prejudice and disadvantage, and Philadelphia and Eddystone, Pa., and Millville, N. J., are unduly preferred by the rates on this commodity.

5724. Proposed increased rates on cotton piece goods from producing points in New England to certain points in the middle Atlantic states not justified full.

Sioux City Live Stock Exchange v. *Chicago, St. Paul, Minneapolis & Omaha Railway Co.* (40 I. C. C., 418.)

5725. Rates on live stock in carloads from points in southwestern Minnesota and southeastern South Dakota to Sioux City, Iowa, not found unreasonable, unjustly discriminatory, or unduly prejudicial.

5726. The existing rules governing the free transportation of caretakers accompanying carload shipments of live stock from points in southwestern Minnesota and southeastern South Dakota to Sioux City, Iowa, appear to be unduly prejudicial in comparison with the rules governing from the same points of origin to St. Paul on traffic to South St. Paul, Minn., but the question can not be determined on the present record. Further hearing required.

St. Louis, Mo. (Cupples Station), terminal regulations. (40 I. C. C., 425.)

5727. The Wabash and Chicago & Alton railroads, at Cupples Station, St. Louis, Mo., propose, without charge to the consignee, to unload carload freight onto trucks and lift it by elevator from the depressed track level to the station platform on the street level, where the freight will be received from trucks, in some instances at points on the platform contiguous to warehouse doors by certain consignees located in various buildings which stand adjacent to and partially surround the station; and in some instances at a space on the platform opening out on a driveway leading to Spruce Street by consignees who have no direct connection with the station and who have to haul away their freight by wagon. Certain warehousemen who receive their carload freight from private sidings at their own expense for unloading complain that by reason of the free service described carload shipments of freight, principally pool cars, are attracted through that station that otherwise would come to them for distribution for hire; *Held*, That, although about 85 per cent of the station's freight is handled for consignees with warehouses immediately adjacent to the station platform, Cupples Station is a bona fide railroad station, and that under the peculiar conditions there existing the practice described does not unlawfully discriminate against other shippers who receive freight through the station or in favor of all patrons of the station against receivers of freight from team tracks, private sidings, or other public freight stations in St. Louis; and that the arrangement under which Cupples Station is operated is unusual but not in itself unlawful, and upon this record is not shown to result in discrimination between patrons of the station or otherwise to be in violation of the act to regulate commerce.

Molasses from Texas and Louisiana. (40 I. C. C., 435.)

5728. Proposed increased carload rates on domestic molasses (other than blackstrap) from New Orleans and other Louisiana and Texas points to points on Ohio, Mississippi, and Missouri Rivers and to points in the states of Tennessee, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, South Dakota, Iowa, and Missouri, found justified.

5729. Proposed increased rates on molasses (other than blackstrap) from the same originating points to points west of the west bank of the Missouri River and west of the line of the Kansas City Southern Railway, except Lincoln, Nebr., and Fort Scott, Kans., found not to have been justified.

5730. Proposed increased rates on domestic blackstrap, carloads, in tank cars, from New Orleans, La., and other Louisiana points, Mobile, Ala., Gulfport, Miss., Pensacola, Fla., and other points, to Memphis, Tenn., St. Cloud, Minn., and Missouri River cities, found justified.

5731. Proposed increased rates on domestic blackstrap, carloads, in tank cars, from the same originating points to points in Kansas and Oklahoma and to Fort Calhoun, Nebr., found not to have been justified.

Richmond Commercial Club v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 451.)

5732. The rates in effect on the date of hearing from Cincinnati, Ohio, and Louisville, Ky., to Richmond, Ky., applicable on through interstate traffic from points in the north and west, not shown to have been unreasonable or unduly prejudicial to Richmond.

5733. Application for relief from the requirements of the fourth section in connection with rates from eastern points to Winchester, Ky., and intermediate points on the Louisville & Nashville Railroad, denied.

Poteau Coal and Mercantile Co. v. *Abilene & Southern Railway Co.* (40 I. C. C., 459.)

The complainant asked for the reinstatement of joint rates on coal from Witteville, Okla., to points in Texas and other states which had been canceled by the defendants, and for reparation. The defendants voluntarily restored the joint rates, but opposed the claims for reparation. At the hearing certain carriers asked the Commission to determine whether the Fort Smith, Poteau & Western Railway Co., which serves complainant's mine at Witteville, is a common carrier, and, if so, to fix divisions of the reinstated joint rates. Upon all the evidence; *Held:*

5734. The rates under attack were unreasonable in the amount that they exceeded the joint through rates formerly in effect and reparation awarded accordingly.

5735. The Fort Smith, Poteau & Western Railway Co. is a common carrier. The question of divisions left for further consideration.

Manure from Jersey City. (40 I. C. C., 465.)

5736. Proposed increased rates on manure in carloads from New York City and contiguous territory to points on the Central New England Railway and the New York, New Haven & Hartford Railroad found not justified.

Louisiana & Pine Bluff divisions. (40 I. C. C., 470.)

5737. An out of line or diverted movement to a track scale may not properly be included under *The Tap Line Case*, 31 I. C. C., 490, when fixing the switching allowance or division that a tap line may receive from its trunk line connections.

Nashville switching. (40 I. C. C., 474.)

5738. Charge of $7.50 per car proposed by the Nashville Terminals for switching at Nashville, Tenn., found unreasonable to the extent that it exceeds $5 per car.

Wedron White Sand Co. v. *Chicago, Burlington & Quincy Railroad Co.* (40 I. C. C., 483.)

5739. Rate charged for the transportation of a carload of sand from Wedron, Ill., to Salt Lake City, Utah, found not to have been unreasonable. Complaint dismissed.

National Commercial Fixture Manufacturers Asso. v. *Ann Arbor Railroad Co.* (40 I. C. C., 484.)

5740. Upon complaint that the classification applied by defendants to clothing cabinets, counters, partitions, shelving, shelving bases, show cases, showcase frames, and wall cases is unreasonable and unduly preferential; *Held*, That the classification of these articles should be revised in accordance with the views here expressed. Reparation denied.

Coal rates from Oak Hills. (40 I. C. C., 497.)

5741. Original finding that the divisions accruing to the Denver & Salt Lake Railroad Co. out of joint rates on bituminous coal from Oak Hills, Colo., to destinations on the Chicago, Rock Island & Pacific Railway should be $1.18 per ton on all kinds of coal but nut, slack, and pea coal; and $1.12 per ton on nut, slack, and pea coal, affirmed on rehearing with the modification that when the rate on nut, slack, and pea coal is the same as the rate on lump coal the Denver & Salt Lake Railroad shall receive a division on nut, slack, and pea coal of $1.18 per ton.

Classification of chain. (40 I. C. C., 499.)

5742. Changes proposed in official classification descriptions and ratings of chains, belting, or sprocket found justified.

Riverside Mills v. *Augusta & Savannah Steamboat Co.* (40 I. C. C., 501.)

5743. Awards of reparation do not depend upon the solvency or insolvency of the carriers concerned.

5744. Reparation required in a gross sum from all the carriers defendant.

Michigan Seating Co. v. *Grand Trunk Western Railway Co.* (40 I. C. C., 503.)

5745. Rating of fiber furniture in less than carloads as provided in official classification prior to April 15, 1914, found upon rehearing not to be unreasonable, unjustly discriminatory, or unduly prejudicial when applied to shipments

of fiber furniture in less than carloads from Jackson, Mich., to points in other states where rates are governed by official classification. Previous findings vacated and complaint dismissed.

Friedlaender & Co. v. *Central of Georgia Railway Co.* (40 I. C. C., 506.)

5746. Original decision that complainant had not proved damage on account of an unduly prejudicial class A rate of 32 cents on paper stock from Columbus, Ga., to Cincinnati and Lockland, Ohio, affirmed.

Lee Co. v. *Chicago, Rock Island & Pacific Railway Co.* (40 I. C. C., 507.)

5747. Reparation awarded on shipments of creosote oil in carloads from Moline, Ill., to Omaha, Nebr.

Morgantown & Kingwood divisions. (40 I. C. C., 509.)

5748. The Commission has no authority, under section 15 of the act, to prescribe the divisions of joint through rates except when the joint rates have been previously fixed by the Commission under its order and the parties thereto are in disagreement.

5749. Contention of the Morgantown & Kingwood Railroad that the Commission fixed its joint rates in *The Five Per Cent Case*, and thus laid a foundation for prescribing the divisions of such rates, not sustained.

Town of Torrington v. *Chicago, Burlington & Quincy Railroad Co.* (40 I. C. C., 512.)

5750. Rates on live stock in carloads from Torrington, Wyo., to Omaha, Nebr., and on oil, less than carloads, from Omaha to Torrington not shown to be unreasonable but held to be unduly prejudicial.

Lena Lumber Co. v. *Chicago, Rock Island & Pacific Railway Co.* (40 I. C. C., 515.)

5751. Rate of 14 cents per 100 pounds charged for the transportation of a carload of yellow-pine lumber from Benton, Ark., to Memphis, Tenn., not found unreasonable or unduly prejudicial in comparison with the 10-cent rate contemporaneously in effect from Little Rock, Ark., to Memphis, Tenn. Complaint dismissed.

Inland Seed Co. v. *Oregon-Washington Railroad & Navigation Co.* (40 I. C. C., 517.)

5752. Reparation denied on shipments which moved from eastern defined territories to points intermediate to Pacific coast terminals previous to the adjustment of the rates that followed the *Intermountain Cases; Railroad Commission of Nevada* v. *S. P. Co.*, 21 I. C. C., 329; and *City of Spokane* v. *N. P. Ry. Co.*, 21 I. C. C, 400; affirmed in *Intermountain Rates Cases*, 234 U. S., 476.

5753. Double first-class rate charged on less-than-carload shipments of mimeographs and addressing machines from Chicago, Ill., to Spokane, Wash., found to have been unreasonable to the extent that it exceeded one and one-half times the first-class rate contemporaneously in effect. Reparation awarded.

Omaha Grain Exchange v. *Chicago & Alton Railroad Co.* (40 I. C. C., 523.)

5754. Following original report, reparation awarded on carload shipments of corn and oats from Omaha and South Omaha, Nebr., and Council Bluffs, Iowa, to Auxvasse, McCredie, Fulton, and New Bloomfield, Mo.

Joseph Iron Co. v. *Morgan's Louisiana & Texas Railroad & Steamship Co.* (40 I. C. C., 525.)

5755. Conclusions reached in the original report in this case adhered to.

Sheldon Bottling Works v. *Chicago, Rock Island & Pacific Railway Co.* (40 I. C. C., 527.)

5756. Rates charged by defendants for the transportation of soft drinks from Sheldon, Iowa, to Trosky, Wilmont, Kenneth, Lismore, Jasper, Round Lake, Hardwick, Reading, and Ellsworth, Minn., and of empty bottles returned to Sheldon, not found to be unreasonable. Complaint dismissed.

Western Chemical Manufacturing Co. v. *Denver & Rio Grande Railroad Co.* (40 I. C. C., 529.)

5757. Rate of 73 cents per 100 pounds charged on a carload shipment of sulphuric acid from Louviers, Colo., to Port Arthur, Tex., found to have been unreasonable to the extent that it exceeded 33 cents. Reparation awarded.

Purity Oats Co. v. *Chicago, Burlington & Quincy Railroad Co.* (40 I. C. C. 531.)

5758. Rate of 40½ cents per 100 pounds charged for the transportation of rolled oats from Keokuk, Iowa, to Denver and Pueblo, Colo., not found to have been unreasonable. Complaint dismissed.

Deere & Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (40 I. C. C., 533.)

5759. Application of defendant's demurrage rules to three carloads of castings and lumber at East Moline, Ill., not found to have resulted in unreasonable or unduly prejudicial charges. Complaint dismissed.

Boyd v. *Alabama, Tennessee & Northern Railroad Co.* (40 I. C. C., 535.)

5760. Rates charged for the transportation of certain carload shipments of yellow-pine lumber from Climax, Ala., to Nashville, Tenn., found unreasonable to the extent that they exceeded a rate of 16 cents per 100 pounds. Reparation awarded.

North Dakota Metal Culvert Co. v. *Great Northern Railway Co.* (40 I. C. C., 537.)

5761. Combination rate of 73 cents per 100 pounds on plate-iron culverts in carloads from Fargo, N. Dak., to Arnegard, N. Dak., by an interstate route, found not to have been unreasonable.

5762. Joint rate of $1 on plate-iron culverts in carloads between the same points found unlawful to the extent that it exceeds the aggregate of intermediate rates.

Fissell v. *Baltimore & Ohio Railroad Co.* (40 I. C. C., 539.),

5763. Allegation of complaint that charges on a carload of contractors' outfit were assessed on an excessive weight found not sustained and complaint dismissed.

Chattahoochee Lumber Co. v. *Atlantic Coast Line Railroad Co.* (40 I. C. C., 541.)

5764. Defendants' rates for the transportation of lumber in carloads from Lela and Eleanor, Ga., to Danville, Va., not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

Western Consolidated Coal Co. v. *Chicago, Terre Haute & Southeastern Railway Co.* (40 I. C. C., 543.)

5765. Reconsigning charge on a carload of coal from St. Clare, Ind., to Chicago, Ill., reconsigned in transit, not shown to have been unlawful. Complaint dismissed.

Dyes from New York. (40 I. C. C., 546.)

5766. Proposed cancellation of commodity rates on aniline and alizarine dyes from New York, N. Y., and adjacent points, to North Adams, Mass., and certain other points, found justified.

Bruner Co. v. *Southern Railway Co.* (40 I. C. C., 549.)

5767. Claim for reparation on two carloads of lumber from Dooling, Ga., to Atlantic City, N. J., found to have been abandoned.

5768. Carload shipment of lumber from Embree, S. C., to Trenton, N. J., found not to have been misrouted.

5769. Carload shipment of lumber from Denton, N. C., to Wilmington, Del., found to have been misrouted and reparation awarded.

Kern & Sons v. *Chicago, Milwaukee & St. Paul Railway Co.* (40 I. C. C., 552.)

5770. Following the principle applied in previously decided cases; *Held*, That the Chesapeake Western Railroad Co. should permit the diversion or reconsignment of carload shipments of flour and feed, in transit from Milwaukee, Wis., to Bridgewater, Va., on the basis of the through rate from Milwaukee to Bridgewater plus a maximum charge of $2 for the extra services incident to the diversion or reconsignment, provided the contents of the car remain unchanged, no out of line haul is necessary, and the request is received before the arrival of a car at the original destination or within a reasonable time thereafter and before the car is set for delivery. Reparation awarded.

Frankfeld & Co. v. *New York Central Railroad Co.* (40 I. C. C., 555.)

5771. Refusal of defendants to provide cars specially equipped with hooks and racks for the transportation of chilled and frozen meats not found to be unreasonable or unduly prejudicial. Complaints dismissed.

Boston & Maine boat lines. (40 I. C. C., 565.)

5772. The Boston & Maine Railroad, to the extent shown in the report, does or may compete with its steamers on Lake Winnepesaukee and Lake Memphremagog within the meaning of the act. But upon the showing made it is *Held*, That the water services in question are operated in the interest of the public, are of advantage to the convenience and commerce of the people, and their continued operation will neither exclude, prevent, nor reduce competition, and should be permitted.

Sewer pipe from Jacksonville. (40 I. C. C., 568.)

5773. Proposed increased proportional rates for the transportation of interstate carload shipments of sewer pipe from Jacksonville, Fla., to Tampa, Fla., and certain points taking Tampa rates, found to have been justified; proposed rate to Lakeland, Fla., not found justified.

5774. Fourth section applications in which authority is sought to continue proportional rates on interstate shipments of sewer pipe from Jacksonville to Tampa lower than the rates contemporaneously applicable on like traffic to intermediate points, denied.

Graham & Gila County Traffic Asso. v. *Arizona Eastern Railroad Co.* (40 I. C. C., 573.)

The complaints attack as unreasonable the rates on certain commodities from points in California to points on the Globe division of the Arizona Eastern Railroad in Arizona, and also the class and commodity rates from certain eastern group territories to the same destinations. After the complaints were filed the carriers published reduced rates from the east which resulted in reductions to the destination points here involved. On the facts of record; *Held:*

5775. The rates from California, and those from the east as now in effect, are not shown to be unreasonable.

5776. The portion of the Southern Pacific Co.'s Fourth Section Application No. 1161, by which authority is sought to continue rates on high explosives from points in California to El Paso, Tex., which are lower than rates contemporaneously applicable on the same commodity to intermediate points, granted.

Central Vermont boat lines. (40 I. C. C., 589.)

Upon application of the Central Vermont Railway Co., under section 5 of the act to regulate commerce, as amended by section 11 of the Panama Canal act, for permission to continue existing service by vessels between New York, N. Y., and New London, Conn., and to install a similar service between New York and Providence, R. I.; *Held:*

5777. That the petitioner may compete with the existing and the proposed water lines.

5778. That the existing service between New York and New London is being operated in the interest of the public; that it is, and the proposed service between New York and Providence will be, of advantage to the convenience and commerce of the people; and that an extension of the former and the installation of the latter will neither exclude, prevent, nor reduce competition on the routes by water under consideration.

Tex-O-Cide Chemical Co. v. *Texas & Pacific Railway Co.* (40 I. C. C., 594.)

5779. Rates charged by defendants for the transportation of second-hand iron and steel drums from Chicago, Ill., Atlanta, Ga., and Kansas City, Mo., to Dallas, Tex., not shown to have been unreasonable. Complaint dismissed.

Milling logs in transit on tap lines. (40 I. C. C., 597.)

5780. Request that trunk line carriers generally be required to establish milling-in-transit arrangements on logs in connection with tap lines in the lumber blanket rate territory in the southwest denied.

5781. The establishment by a trunk line of transit arrangements on logs hauled by it to mills located upon its own lines in the blanket territory would subject to undue prejudice and disadvantage the mills on the tap lines with which it connects and has joint rates, unless the trunk line offered them a similar and equal arrangement; the undue prejudice and disadvantage under such

circumstances to mills in the same territory that get their logs in over unincorporated logging roads or by teams over tram roads, or by similar means, also pointed out.

Indiana and Illinois Coal. (40 I. C. C., 603.)

5782. Proposed increased rates on bituminous coal in carloads from mines in Illinois and Indiana to points in Illinois, Indiana, Wisconsin, and Michigan found justified, and orders of suspension vacated.

Armour & Co. v. *Chicago & North Western Railway Co.* (40 I. C. C., 609.)

5783. Rate charged for the transportation of live hogs in carloads from Sioux City, Iowa, to East St. Louis, Ill., not shown to have been unreasonable. Complaint dismissed.

Hungarian Milling & Elevator Co. v. *Chicago & Eastern Illinois Railroad Co.* (40 I. C. C., 610.)

5784. Rate charged for the transportation of phosphate of lime in bags from Chicago Heights, Ill., to Denver, Colo., found to have been unreasonable to the extent it exceeded that contemporaneously in effect on this commodity in barrels and boxes. Reparation awarded.

Mutual Wheel Co. v. *Nashville, Chattanooga & St. Louis Railway.* (40 I. C. C., 612.)

5785. Charge of $7 per car imposed by defendants at Paducah, Ky., for switching carloads of logs, bolts, or billets, originating in Tennessee, from the Tennessee River to complainant's plant, found to be unjustly discriminatory, Reparation denied.

Kern & Sons v. *Chicago, Milwaukee & St. Paul Railway Co.* (40 I. C. C., 615.)

5786. Refusal of the Washington & Old Dominion Railway to permit the reconsignment of a mixed carload of flour and wheat shipped from Milwaukee, Wis., to Vienna, Va., and from Vienna to Leesburg, Va., at the through rate from Milwaukee to Leesburg, plus a charge of $5 for the services incident to the reconsignment, where the contents of the car remained unchanged, where no out of line haul was required, and where the request for reconsignment was received within a reasonable time after the arrival of the car at Vienna, was unlawful and unreasonble. Reparation awarded.

Dinsmore & Co. v. *Philadelphia, Baltimore & Washington Railroad Co.* (40 I. C. C., 618.)

5787. Demurrage charges collected for the detention of a carload shipment of hay at Baltimore, not found unreasonable. Complaint dismissed.

Dallas Chamber of Commerce v. *Atchison, Topeka & Santa Fe Railway Co.* (40 I. C. C., 619.)

5788. Certain carload commodity rates from St. Louis to points in northeast Texas found unreasonable to the extent of 5 cents per 100 pounds, and from Kansas City to the same points to the extent that they are not as much as 5 cents per 100 pounds less than the rates contemporaneously maintained from St. Louis.

Grain from New Orleans. (40 I. C. C., 654.)

5789. Proposed cancellation of commodity rates on grain, grain screenings, and animal and poultry feeds from New Orleans, La., to points in Carolina territory found not justified.

Prey Bros. & Cooper Live Stock Commission Co. v. *Texas & Pacific Railway Co.* (40 I. C. C., 658.)

5790. Charges collected for the transportation of 16 carloads of range cattle consigned from Monahans, Tex., to Gillette, Wyo., and reconsigned en route to Fountain, Colo., found to have been unlawful. Reparation awarded.

Union Saw Mill Co. v. *St. Louis, Iron Mountain & Southern Railway Co.* (40 I. C. C., 661.)

5791. Rates charged for the transportation of furniture, in carloads, from St. Louis, Mo., and structural steel, in carloads, from Memphis, Tenn., to Huttig, Ark., not found unreasonable.

5792. Rates charged for the transportation of woodworking machinery, stoves, and cement, in carloads, from St. Louis to Huttig, found unreasonable to the

extent that they exceeded the aggregate of the rates contemporaneously in effect to and from Litroe, La.

5793. Shipment of lumber from Huttig to Elgin, Okla., found to have been misrouted. Reparation awarded.

5794. Fourth section relief denied.

Aetna Explosives Co. v. *Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co.* (40 I. C. C., 667.)

5795. Defendants' combination rates for the transportation of common black powder from Goes, Ohio, to points in Virginia, West Virginia, and Kentucky on the Chesapeake & Ohio Railway not found unreasonable on unduly prejudicial. Complaint dismissed.

Hydraulic-Press Brick Co. v. *Pennsylvania Co.* (40 I. C. C., 669.)

5796. Rate on brick in carloads from Roseville, Ohio, to Huntington, W. Va., found not unreasonable, but unduly prejudicial to the extent that it exceeds rates on like traffic from New Lexington, Crooksville, and Shawnee, Ohio, to Huntington. Reparation denied.

Fruits and vegetables from Texas points. (40 I. C. C., 673.)

5797. Following *The Ogden Gateway Case*, 35 I. C. C., 131, the proposed cancellation of joint carload rates on fruits and vegetables from producing points on the St. Louis, Brownsville & Mexico in connection with the San Antonio, Uvalde & Gulf, International & Great Northern, Texas & Pacific, St. Louis, Iron Mountain & Southern, and Missouri Pacific, through Odem, Tex., found to have been justified. Orders of suspension vacated.

Goodman Manufacturing Co. v. *Chicago, Milwaukee & St. Paul Railway Co.* (40 I. C. C., 675.)

5798. Charges collected for the transportation of two less-than-carload shipments of electric locomotive wheels on axles with hub attachments from Phildia, Iowa, to Chicago, Ill., found to have been unlawful. Complainant not shown to have been damaged. Complaint dismissed.

Havana Metal Wheel Co. v. *Chicago, Peoria & St. Louis Railway Co.* (40 I. C. C., 677.)

5799. Claim for reparation on 20 carloads of lumber shipped from Rome, Miss., to Havana, Ill., found to have been abandoned, and complaint dismissed.

5800. Correction of a fourth section departure directed.

Louisville Board of Trade v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 679.)

At Louisville, Ky., the Louisville & Nashville Railroad Co. refuses to switch between connecting lines and industries located only on its tracks traffic for which it competes. It switches such traffic between those industries and the Chesapeake & Ohio Railway under a contract with the latter carrier; *Held:*

5801. That the proviso in section 3 of the act is intended to protect a carrier's terminals against use by a competing carrier engaged in like business when granting such use would deprive the owning carrier of a road haul which it is prepared to perform, and is not limited to the question of physical entry upon such tracks or facilities of the power, equipment, or employees of another carrier.

5802. That the switching for the Chesapeake & Ohio Railway Co. and refusal to switch for all other connecting carriers at Louisville is unduly preferential of the former and unduly prejudicial to the latter, their patrons, and their traffic.

Wicker v. *St. Louis & San Francisco Railroad Co.* (40 I. C. C., 695.)

5803. Charges collected for the transportation of various carload shipments of live stock from New Albany, Miss., to East St. Louis, Ill., found to have been unreasonable and unjustly discriminatory. Reparation awarded.

Mount Pleasant Fertilizer Co. v. *New Orleans & Northeastern Railroad Co.* (40 I. C. C., 698.)

5804. Former report and order modified.

New England Milk Case. (40 I. C. C., 699.)

5805. Proposed increased rates by certain carriers in New England on milk, cream, evaporated milk, condensed milk, skim milk, buttermilk, and pot cheese in carloads and less than carloads found not to have been justified.

5806. Rates, regulations, and practices of New England carriers with respect to the interstate transportation of milk, cream, condensed milk, evaporated milk, skim milk, buttermilk, and pot cheese in carloads, under what is known as the New England or leased-car system, found to be unlawful.

5807. A scale of rates on a per can basis prescribed for the future between points in New England for the transportation interstate of the above commodities in less than carloads in passenger, milk, and mixed passenger and freight train service.

5808. Lower rates prescribed for transportation in freight cars in freight trains.

5809. Rates prescribed for carload shipments from one consignor to one consignee from one point of origin to one destination.

Sloss-Sheffield Steel & Iron Co. v. *Louisville & Nashville Railroad Co.* (40 I. C. C., 738.)

5810. Upon examination of reparation claims which have been filed with the Commission pursuant to the supplemental report herein, 35 I. C. C., 460, this second supplemental report is issued to remove certain confusion which exists and to facilitate the disposition of the reparation matters involved.

Christy & Huggins Co. v. *Nashville, Chattanooga & St. Louis Railway.* (40 I. C. C., 745.)

5811. Rate charged for the interstate transportation of coal from Whitwell and Orme, Tenn., to Murfreesboro, Tenn., found unlawful. Reparation awarded.

Prusia Hardware Co. v. *Cincinnati, Hamilton & Dayton Railway Co.* (40 I. C. C., 747.)

5812. Rate charged for the transportation of a carload of shovels from Piqua, Ohio, to Fort Dodge, Iowa, found to have been unreasonable to the extent that it exceeded the aggregate of the intermediate rates to and from Chicago, Ill. Reparation awarded.

Eastern Shore of Virginia Produce Exchange v. *New York, Philadelphia & Norfolk Railroad Co.* (40 I. C. C., 750.)

5813. Upon complaint that rates on potatoes from points on the line of the New York, Philadelphia & Norfolk Railroad in Accomac and Northampton counties, Va., to points in the states of North Carolina, South Carolina, Georgia, Alabama, Florida, Louisiana, and Tennessee are unreasonable and unduly preferential and that no reasonable through routes and joint rates are maintained by defendants; *Held*, That the existing through routes and rates applicable thereto have been shown to be reasonable and nonpreferential. Complaint dismissed.

Grand Rapids Plaster Co. v. *Lake Shore & Michigan Southern Railway Co.* (41 I. C. C., 1.)

5814. Readjustment of rates on plaster and other gypsum products from Fort Dodge, Gypsum, and Mineral City, Iowa, on the one hand, and Grand Rapids, Mich., on the other, to destinations in northern Illinois and sourthern Wisconsin, as defined in this proceeding, proposed by defendants as a result of our findings in our previous report, 34 I. C. C., 202, approved as modified. Defendants required to remove the existing undue and unreasonable prejudice and disadvantage to Grand Rapids and complainant.

5815. Upon showing that plaster and other gypsum products from Fort Dodge, Gypsum, and Mineral City, marketed at Chicago, Ill., and Milwaukee, Wis., encounter at those points keen competition from the same kind of commodities transported from Grand Rapids, and from sand and lime produced at near-by points, while the competition at intermediate points is far less severe; *Held*, That relief should be granted from the long-and-short-haul rule of the fourth section.

Sanford-Day Iron Works v. *Louisville & Nashville Railroad Co.* (41 I. C. C., 10.)

5816. Rates charged for the transportation of certain less-than-carload shipments of iron articles from Cincinnati, Cleveland, Berea, and Newburg, Ohio, Louisville, Ky., and Pittsburgh, Pa., to Knoxville, Tenn., found to have been unreasonable to the extent that they exceeded aggregates of intermediate rates. Reparation awarded.

5817. Portion of Fourth Section Application No. 1952, filed by the Louisville & Nashville Railroad Co., in which authority is sought to continue rates

on less-than-carload shipments of iron bolts, nuts, rivets, and washers from Cincinnati, Ohio, and Louisville, Ky., to Knoxville, Tenn., in excess of the aggregates of intermediate rates to and from Croydon, Ky., denied.

Business Men's League of St. Louis v. *Atchison, Topeka & Santa Fe Railway Co.* (41 I. C. C., 13.)

Passenger fares between St. Louis, Mo., and Illinois points attacked as unreasonable and unjustly discriminatory against St. Louis and unduly preferential in favor of East St. Louis, Chicago, and other Illinois points; *Held*, That—

5818. Passenger fares between St. Louis and Illinois points are unreasonable in so far as they are in excess of fares constructed upon a basis of 2.4 cents per mile plus a reasonable toll for crossing the Mississippi River.

5819. The existing bridge tolls for crossing the Mississippi River at St. Louis and at Keokuk, Iowa, are reasonable.

5820. Passenger fares between St. Louis and Illinois points subject St. Louis and its passenger traffic to undue and unreasonable prejudice and disadvantage to the extent that said fares exceed the fares between East St. Louis and the same Illinois points by more than a reasonable bridge toll.

5821. Bridge tolls excluded, passenger fares between St. Louis and Illinois points subject St. Louis and its passenger traffic to undue and unreasonable prejudice and disadvantage to the extent that said fares exceed the fares between Chicago and those same Illinois points when the distances are approximately equal.

5822. Passenger fares between Keokuk and Illinois points are unreasonable in so far as they are in excess of fares constructed upon a basis of 2.4 cents per mile plus a reasonable toll for crossing the Mississippi River.

5823. Passenger fares between Keokuk and Illinois points subject Keokuk and its passenger traffic to undue and unreasonable prejudice and disadvantage to the extent that said fares exceed the fares between points directly opposite Keokuk and those same Illinois points by more than a reasonable bridge toll.

5824. Bridge tolls excluded, passenger fares between Keokuk and Illinois points subject Keokuk and its passenger traffic to undue and unreasonable prejudice and disadvantage to the extent that said fares exceed the fares between Chicago and those same Illinois points where the distances are approximately equal.

5825. The intrastate passenger fares on the reasonably direct lines of defendants lying in the territory intermediate to Chicago on the north, and St. Louis and Keokuk on the south and southwest, impose an unlawful burden on interstate commerce to the extent that the basis per mile of said fares is less than the basis per mile for fares for interstate passenger travel between St. Louis and Keokuk and Illinois points situate in the general territory first described and reached by reasonably direct routes of defendants' lines.

5826. Defendants required to remove discrimination where found to be unjust.

Royal Milling Co. v. *Great Northern Railway Co.* (41 I. C. C., 29.)

5827. Where the rate for the carriage of a commodity is no more than is just and reasonable for the through service, there is no ground, in the absence of undue prejudice or unjust discrimination, for requiring the performance of a special and expensive service without additional charge.

5828. Milling-in-transit charge applicable on Montana wheat milled at Great Falls, Mont., for eastern and western terminals not shown to be unreasonable or unduly prejudicial.

Butler County Railroad Divisions. (41 I. C. C., 36.)

5829. Petition for permission to make interline settlements on the basis of the milling-in-transit arrangements in effect prior to May 1, 1912, denied, and the complaint dismissed, the other questions presented by it having been disposed of in the cases cited in the report.

Southwestern Portland Cement Co. v. *Texas & Pacific Railway Co.* (41 I. C. C., 39.)

5830. Charges collected by defendants for the transportation of coal in carloads from Haleyville, Okla., to El Paso, Tex., not found to be unreasonable or otherwise in violation of the act. Complaint dismissed.

New Jersey, Indiana & Illinois Railroad Case. (41 I. C. C., 42.)

5831. Divisions accorded by the Wabash Railroad and connections to the New Jersey, Indiana & Illinois Railroad not found excessive.

Johnstown & Stony Creek Railroad Co. Case. (41 I. C. C., 46.)

5832. The Johnstown & Stony Creek Railroad Co. found to be a common carrier industrial line and connecting trunk lines directed to conform their joint rate and switching arrangements with it to the principles herein announced.

Allowances to Kanawha, Glen Jean & Eastern Railway Co. (41 I. C. C., 53.)

5833. The Kanawha, Glen Jean & Eastern Railway found to be a common carrier entitled to accept divisions of rates from its trunk line connections.

5834. The divisions granted by the connecting trunk lines should reflect the cost of service by the Kanawha, Glen Jean & Eastern Railway to and from its junction points with the trunk lines.

5835. Rental reserved in a lease of the White Oak Railway to the Chesapeake & Ohio and the Virginia railways discussed.

Class rates from Chestnut Ridge Railway stations. (41 I. C. C., 62.)

5836. Divisions proposed to be paid to the Chestnut Ridge Railway by the Lehigh & New England Railroad and connections out of joint class rates proposed from points on the Chestnut Ridge Railway to points west of the Buffalo-Pittsburgh line and out of class rates between stations on the Chestnut Ridge and on the Delaware, Lackawanna & Western Railroad found excessive to the extent that they exceed $3.25 per car on traffic handled over the Palmerton branch of the Chestnut Ridge Railway and $4.50 per car on traffic handled over the main line.

Northampton & Bath Railroad Co. Case. (41 I. C. C., 68.)

5837. Connecting carriers directed to conform their joint rate or switching arrangements with the Northampton & Bath Railroad to the principles herein announced, the Northampton & Bath Railroad being found to be a common carrier.

5838. Divisions or allowances by trunk lines to common carrier industrial lines must vary directly with the cost of the industrial lines' service to and from the trunk lines, because fair divisions or allowances for the more costly service would be excessive for the less costly service and the excess would constitute a pecuniary inducement to the controlling industry to route its traffic by way of the trunk line paying the excessive allowances.

5839. Switching reclaim arrangements disapproved and substitute prescribed.

Iron and steel to Colorado points. (41 I. C. C., 76.)

5840. On the facts of record here the Commission adheres to its finding in *The Iron and Steel Cases*, 36 I. C. C., 86, 98, that a rate of 60 cents per 100 pounds on certain iron and steel articles from St. Louis and points taking the same rate to Denver will be a reasonable maximum through rate for the future; but on the further evidence adduced it is also found that the maintenance of that rate contemporaneously with lower rates on wrought iron and other pipe of the kind herein described from and to the same points would give to the eastern manufacturers of such pipe an undue advantage to the undue prejudice and disadvantage of the Denver manufacturers of riveted and welded pipe. The respondents are required so to readjust their rates as to avoid such undue prejudice and disadvantage.

Railroad Commission of Louisiana v. *Arkansas Harbor Terminal Railway Co.* (41 I. C. C., 83.)

5841. Class rates between Shreveport and points in Texas found unreasonable and unduly prejudicial to Shreveport as compared with class rates for like distances in Texas. Reasonable maximum rates prescribed between Shreveport and Texas points and undue prejudice ordered removed.

5842. Commodity rates between Shreveport and points in Texas on beef cattle; stock cattle; horses and mules; stone (rough); sand and gravel; common brick; fire brick; junk; lignite; cordwood and tan bark; machinery (gin and irrigation); glass fruit jars and bottles; iron and steel articles; potatoes and turnips; fruits, melons, and vegetables; empty barrels and kegs; blackstrap molasses; cotton seed and products; unshelled peanuts; flour; wheat; corn; hay; agricultural implements, except hand implements; bagging and ties; binder twine; cans, cases, and pails (tin); baskets; chocolate raw materials; dry goods; window glass; glassware (table); horse and mule shoes; oil (refined petroleum); iron and steel pipe; wrapping paper; printing paper; tin articles; wire and nails; door locks; tools, files, and rasps; and on other articles taking the same rates, respectively, found unreasonable and unduly prejudicial

to Shreveport as compared with rates for the transportation of the same commodities for like distances within Texas. Reasonable maximum rates between Shreveport and Texas points prescribed and undue prejudice ordered removed.

5843. Application to the transportation of property within Texas of classification rules different from and minimum carload weights lower than those applicable to transportation of like property between Shreveport and Texas points found unduly prejudicial to Shreveport and undue prejudice ordered removed.

McCaull-Dinsmore Co. v. *Great Northern Railway Co.* (41 I. C. C., 178.)

5844. Certain carloads of bulk corn for shipment between points in Minnesota, delivered to defendant unrouted, and transported over an interstate route although lower rates applied over an available intrastate route, found to have been misrouted and reparation awarded.

Iron Ore Rate Cases. (41 I. C. C., 181.)

5845. With certain exceptions it is found, upon the whole record, (*a*) that the present groups, both of the lake ports and of the points of destination are, and for the future will be, unreasonable and unjustly discriminatory within the meaning of sections 1 and 3 of the act to the extent that they differ from those herein found to be reasonable; (*b*) that the rate relationships of the several destination groups are, and for the future will be, unreasonable and unjustly discriminatory to the extent that they depart from those herein fixed; and (*c*) that the rates at present maintained and here under consideration are, and for the future will be, unreasonable and unjustly discriminatory to the extent that they exceed the rates herein shown as reasonable maximum rates.

5846. Carriers required to establish separate charges for storing ore on their docks and for certain other dock services performed by them, also for switching and other services on private industry tracks. Reasonable maximum rates prescribed for the dock services, and a charge on the engine-hour basis suggested for the services on the private industry tracks.

Steamer lines from Norfolk to Baltimore, New York, and Richmond. (41 I. C. C., 285.)

Upon applications of the Southern Railway Co., the Chesapeake & Ohio Railway Co., the Norfolk & Western Railway Co., the Seaboard Air Line Railway, and the Atlantic Coast Line Railroad Co. under the provisions of section 5 of the act to regulate commerce, as amended by section 11 of the Panama Canal act, for an extension of time beyond July 1, 1914, during which operation of the Old Dominion Steamship Co., the Virginia Navigation Co., the Chesapeake Steamship Co., and the Baltimore Steam Packet Co. might be continued by such of said applicants as own or have an interest therein; *Held:*

5847. The applicants may and do compete with the steamer lines which they own or have an interest in.

5848. The present operation of the steamer lines is in the interest of the public and of advantage to the commerce and convenience of the people; the continued operation of the Old Dominion Steamship Co. and the Virginia Navigation Co. by the Southern Railway Co., the Atlantic Coast Line Railroad Co., the Chesapeake & Ohio Railway Co., and the Seaboard Air Line Railway; of the Chesapeake Steamship Co. by the first-named two applicants; and of the Baltimore Steam Packet Co. by the last-named applicant will neither exclude, prevent, nor reduce competition on the routes by water under consideration; and their applications should be granted.

5849. The facts of record do not justify a finding that the continued operation of the Old Dominion Steamship Co. and the Virginia Navigation Co. by the Norfolk & Western Railway Co. will neither exclude, prevent, nor reduce competition on the route by water under consideration; and its application should be denied.

5850. All the rates, fares, schedules, and regulations applicable to the movement by the steamship companies of traffic subject to the act must be filed with the commission and posted as required by the act to regulate commerce and the rules and regulations of the commission.

Lafayette Chamber of Commerce v. *Louisiana Western Railroad Co.* (41 I. C. C., 297.)

5851. Reasonable maximum class rates from Memphis, Tenn., to Lafayette, La., and reasonable differentials over Memphis on traffic from St. Louis to Lafayette prescribed. No change is made in the present basis of defined territories differentials over St. Louis on traffic from the defined territories to Lafayette.

5852. For the transportation from Baton Rouge and New Orleans to Lafayette, as part of a through interstate service, the carriers filed rates with the commission, some of which were restricted to interstate traffic on which no joint rates apply. These, in combination with interstate rates from St. Louis to New Orleans and Baton Rouge, make a less aggregate through charge than the joint rate. In such cases the adjustment violates that clause of the fourth section which prohibits a carrier from charging a through rate that exceeds the combination of separately established intermediate rates "subject to the act." *Joseph Iron Co.* v. *M. L. & T. R. R. & S. S. Co.*, 37 I. C. C., 591, and 40 I. C. C., 525, followed.

5853. The carriers have not justified the charging of through rates from St. Louis and the defined territories to Lafayette that exceed the combinations of separately established intermediate rates to and from the lower Mississippi River crossings.

Advances on coal within Chicago switching district. (41 I. C. C., 302.)

5854. In the original report in this proceeding we held that the respondents had not justified proposed increased rates on coal and coke from mines in various States to points on the line of the Chicago, Milwaukee & St. Paul Railway in Chicago, 27 I. C. C., 71. The carrier named performs only a terminal service in Chicago on this traffic. It now asks that we fix the division which it may receive out of the through rate; *Held*, That upon the whole situation the commission does not feel justified in ordering a basis of divisions different from that now existing.

Coal to Red Wing, Minn. (41 I. C. C., 309.)

5855. The Chicago, Milwaukee & St. Paul Railway Co. denied authority to maintain a rate on coal from Chicago and Milwaukee to Red Wing, Minn., lower than to intermediate points.

5856. Chicago Great Western Railroad Co. authorized to establish a proportional rate from Chicago and points taking the same rates, on bituminous coal in carloads, when originating at points in Kentucky and West Virginia, to Red Wing, Minn., the same as the rate maintained by the Chicago, Milwaukee & St. Paul Railway Co. from Milwaukee to Red Wing and to maintain higher rates at intermediate points between, but not including, Alta Vista, Iowa, and Red Wing.

5857. Orders of suspension vacated.

INDEX TO POINTS DECIDED IN REPORTED CASES.

[The numbers refer to the corresponding headnotes. For example, the number 4760, found under the head of Commodity rates in this index, refers to the paragraph of that number in the foregoing statement of Points Decided by the Commission. The numbers run consecutively from Points Decided in last Annual Report.]

TABLE OF REPORTED CASES DECIDED.

[On the page indicated will be found the points decided in each case.]

APPENDIX E.

DIGEST OF FEDERAL COURT DECISIONS.

DIGEST OF FEDERAL COURT DECISIONS.

A discussion of court decisions, involving injunctions to restrain enforcement of orders of the Commission and of decisions relative to criminal violations of the law, can be found in the text of this annual report. The decisions abstracted herein involve questions of railway regulation which are closely related to matters arising before commissions.

1. In the Supreme Court.

FORFEITURE OF MILEAGE BOOK.

In *So. Ry. Co.* v. *Campbell*, 239 U. S., 99, decided November 15, 1915, it was held that the presentation of a mileage book or mileage exchange ticket by the original purchaser for the transportation of another person who is accompanying him on the journey does not justify a forfeiture of the mileage book under a tariff rule which provides for such forfeiture if a mileage book or ticket be presented to an agent or conductor by any other than the original purchaser.

RESTRICTIONS ON PUBLISHED TARIFFS.

In *Dayton Coal & Iron Co.* v. *C., N. O. & T. P. Ry. Co.*, 239 U. S., 446, decided December 20, 1915, it was held that a through freight rate duly filed by the initial carrier with the Commission became on its effective date the lawful through joint rate, and the only one which the connecting carrier might lawfully receive or the shipper properly pay, where such connecting carrier received the new tariff and stamped and filed it, and, without giving any formal notice to the initial carrier of its acceptance, which was not at that time required by the Commission, acted upon such tariff, insisting that the new rate was the legal one, although it permitted the shipper to make payment at the old rate.

REGULATING LIABILITY OF CONNECTING CARRIER.

In *Atlantic Coast Line R. R. Co.* v. *Glenn*, 239 U. S., 388, decided December 20, 1915, it was held that no rights under the federal constitution are infringed by the provisions of the South Carolina statute under which all carriers participating in a through intrastate shipment are made the agents of each other with respect to the transportation, so that any of the carriers may be sued for loss or damage occurring on any part of the route.

FREE TRANSPORTATION.

In *N. Y. C. & H. R. R. Co.* v. *Gray*, 239 U. S., 583, decided January 10, 1916, it was held that there is nothing in the act to regulate commerce which prevents a carrier from making just compensation in money for the unpaid balance of the purchase price of a map made for it, because the delivery of the particular consideration stipulated for in the contract, viz, free transportation, became unlawful upon the passage of that statute.

In *Ill. C. R. R. Co.* v. *Messina*, 240 U. S., 395, decided March 6, 1916, it was held that riding upon a tender of an interstate train by permission of the engineer without payment of fare is made unlawful by the act to regulate commerce under its provision against free transportation.

CARMACK AMENDMENT.

In *C., C., C. & St. L. Ry. Co.* v. *Dettlebach*, 239 U. S., 588, decided January 10, 1916, it was held that the liability of a terminal carrier in an interstate shipment for a loss due to its negligence while the goods were in its possession as

warehouseman at the place of destination must be regarded as controlled by a limitation to an agreed valuation made to adjust the rate contained in the uniform bill of lading issued by the initial carrier, in view of the provisions of the act to regulate commerce enlarging the definition of the term transportation so as to include all services in connection therewith.

In *N. Y., P. & N. R. R. Co.* v. *Peninsula Produce Exch.*, 240 U. S., 34, decided January 24, 1916, it was held that damages for the loss of the market because of unreasonable delay in transportation occurring anywhere en route are comprehended by the provisions of the Carmack amendment.

In *St. L. & S. F. R. R. Co.* v. *Shepherd*, 240 U. S., 240, decided February 21, 1916, it was held that the error assigned that due effect was not given to certain provisions of the Carmack amendment was raised too late for consideration by the Supreme Court.

In *So. Express Co.* v. *Byers*, 240 U. S., 612, decided April 3, 1916, it was held that rate schedules of an interstate carrier on file with the Commission are admissible in evidence in an action against it to recover damages for delay in the delivery of an interstate shipment on the issue of the validity and effect of a provision in the bill of lading by which the carrier undertook to limit its liability to a specified sum.

In *So. Ry. Co.* v. *Prescott*, 240 U. S., 632, decided April 10, 1916, it was held that the parties to an interstate shipment may not, by special agreement, alter the conditions specified in the bill of lading governing the carrier's liability when a shipment is not removed within 48 hours after notice to the consignee of its arrival, which conform to the carrier's published regulations.

In *N. P. Ry. Co.* v. *Wall*, 241 U. S., 87, decided April 24, 1916, it was held that notice to an agent of a connecting carrier at destination satisfies the requirement in the bill of lading for shipment of cattle, issued by the initial carrier, that the shipper, as a condition precedent to his right to recover for any injury to the cattle while in transit, shall give notice in writing of his claim to some agent "of said company" before the cattle are removed from the place of destination or mingled with other stock, in view of the Carmack amendment, which makes the connecting carrier the agent of the receiving carrier.

In *G., F. & A. Ry. Co.* v. *Blish Milling Co.*, 241 U. S., 190, decided May 8, 1916, it was held that the initial carrier may validly stipulate in the bill of lading issued conformably to the Carmack amendment that claims for loss, damage, or delay must be made in writing to the carrier within four months after the delivery of the property; but it was further held that a telegram containing an adequate statement satisfies this requirement.

In *C., N. O. & T. P. Ry. Co.* v. *Rankin*, 241 U. S., 319, decided May 22, 1916, it was held that where alternate rates, fairly based upon valuation, are offered, a railroad may limit its liability by special contract; but the essential choice of rates must be made to appear before a carrier can successfully claim the benefit of such a limitation and relief from full liability.

In *A., T. & S. F. Ry. Co.* v. *Harold*, 241 U. S., 371, decided June 5, 1916, it was held that Congress has so asserted, by the Carmack amendment, its power over the subject of interstate shipments, the duty to issue bills of lading, and the responsibilities thereunder, as to preclude the application to interstate commerce shipments of a local and exceptional rule of law which invests the innocent holder of a bill of lading with rights not available to the shipper, such as the right to rely on erroneous recitals in the bill of lading as to the date of the carrier's receipt of the goods.

PRIOR ACTION BY THE INTERSTATE COMMERCE COMMISSION.

In *Loomis* v. *L. V. R. R. Co.*, 240 U. S., 43, decided January 24, 1916, it was held that without preliminary action by the Commission a state court has no jurisdiction of an action by shippers to recover from an interstate carrier sums expended by them in constructing grain doors in cars furnished by the carrier, the duly filed interstate rate schedules making no reference to allowances for grain doors.

COMPULSORY TRACKAGE CONNECTION.

In *S. A. L. Ry.* v. *R. R. Commission of Ga.*, 240 U. S., 324, decided February 21, 1916, it was held that it is within the power of a state, acting through an administrative body, to require railroad companies to make track connections

where the established facts show public necessity therefor, just regard being had to advantages which will probably result on one side and necessary expenses to be incurred on the other.

MANDAMUS TO RELAY RAILS AND TO RESUME SERVICE.

In *D. & M. Ry. Co.* v. *Michigan R. R. Commission*, 240 U. S., 564, decided April 3, 1916, it was held that mandamus may issue to enforce obedience to an order of a state commission, directing the carrier to relay one-half a mile of rails removed by it from a 5-mile logging spur and to resume service thereon pending the determination of a suit in equity to vacate such order.

ARKANSAS FULL SWITCHING CREW LAW.

In *St. L., I. M. & S. Ry. Co.* v. *Arkansas*, 240 U. S., 518, decided April 3, 1916, it was held that interstate commerce is not unconstitutionally interfered with by a state statute which forbids railway companies with yards or terminals in cities of the state to conduct switching operations across public crossings in cities of the first or second class with a switching crew of less than one engineer, a fireman, a foreman, and three helpers.

INTERSTATE SHIPMENTS OF INTOXICATING LIQUORS.

In *Rosenberger* v. *Pacific Exp. Co.*, 241 U. S., 48, decided April 24, 1916, it was held that as applied to C. O. D. shipments a prohibitive state license tax upon each place of business or agency of every express company where intoxicating liquors are delivered and the price collected on C. O. D. shipments interposes a direct burden upon interstate commerce, contrary to the federal constitution.

EMBARGO ON CARS.

In *Menasha Paper Co.* v. *C. & N. W. Ry. Co.*, 241 U. S., 55, decided April 24, 1916, it was held that a so-called embargo by which a railway company, at the request of a paper company owning and operating a private sidetrack, refused to furnish cars to shippers for interstate consignments to such paper company, which the latter, under contracts with the shippers, was under an obligation to receive, and did in fact receive, violates the provisions of the act to regulate commerce, requiring railway companies to provide and furnish transportation to shippers upon reasonable request therefor, and such embargo could be removed by the railway company without notice to the paper company, although such action produced a congestion of cars beyond the ability of the paper company to handle on its sidetrack in the usual way, and this rendered the paper company liable to demurrage charges.

FORWARDING AGENT.

In *Reid* v. *Fargo*, 241 U. S., 544, decided June 12, 1916, it was held that an express company which accepted in London, England, an automobile to be shipped to New York, and, having boxed the same, shipped it by an ocean carrier without declaring its value, taking from the steamship company a bill of lading limiting liability to $100 unless a greater value is declared and extra freight paid, was secondarily liable to the owner, where the car was seriously damaged through the negligence of stevedores employed by the steamship company to discharge the car, even though the express company be regarded as a mere forwarding agent.

EXCESSIVE PASSENGER FARES.

In *Missouri* v. *C., B. & Q. R. R. Co.*, 241 U. S., 533, decided June 12, 1916, it was held that the qualification of a decree dismissing a bill in a case brought by a railroad company to enjoin state officers from enforcing a rate statute as without prejudice does not leave the matter open so that in a subsequent individual case brought by the state to recover excess fares paid during the period covered by the company's suit the latter can attack the constitutionality of the law as a whole.

2. In the Circuit Courts of Appeals.

RULE AS TO AGGREGATE WEIGHT.

In *Barrett* v. *Gimbel Brothers*, 226 Fed., 623, decided October 26, 1915, the Circuit Court of Appeals for the Third Circuit held that an express company's rule that two or more packages forwarded by one shipper at the same time to one consignee at one address must be charged for on the aggregate weight, provided that any of the packages weighing less than 20 pounds each shall be charged for as weighing 20 pounds each, restricts aggregation to instances where one shipper forwards several packages at the same time, and permits aggregation in such cases without regard to the amount of the merchandise rate established by the company. It was further held that the construction of the rule as to aggregating weights, to determine whether the company has been paid excessive charges, does not rest solely within the jurisdiction of the Interstate Commerce Commission, but the district court has jurisdiction in an action by a shipper to recover alleged overpayments.

MISSENDING FREIGHT.

In *So. Express Co.* v. *Reagin*, 228 Fed., 14, decided September 14, 1915, the Circuit Court of Appeals for the Fourth Circuit held that upon a shipper's mistake in the address of a parcel an express company was not liable if it went to the wrong place; but if its own agent made such mistake it would be bound to deliver it to the proper place to which it had been sent, or to return it to the shipper.

EATING HOUSES FOR PASSENGERS AND EMPLOYEES.

In *Montgomery* v. *C., B & Q. R. R. Co.*, 228 Fed., 616, decided November 16, 1915, the Circuit Court of Appeals for the Eighth Circuit held that conceding that a carrier has no right to enter the field of general business and transport the articles and commodities used and sold therein at less than the regular published rates available to the general public, it has the right to provide eating houses for its passengers and employees at points on its line, and may transport the articles and commodities for the use of such eating houses at less than the full published rate.

REASONABLENESS OF RULE OF TELEGRAPH COMPANY.

In *Gardner* v. *W. U. T. Co.*, 231 Fed., 405, decided February 28, 1916, the Circuit Court of Appeals for the Eighth Circuit held that the question whether a regulation by an interstate telegraph company requiring notice of claim to be given within 60 days is reasonable is for the Interstate Commerce Commission to determine.

EMPLOYMENT IN INTERSTATE COMMERCE.

In *Coal & Coke Ry. Co.* v. *Deal*, 231 Fed., 604, decided February 2, 1916, the Circuit Court of Appeals for the Fourth Circuit held that one engaged in employment necessary to the maintenance of any instrumentality essential to the successful operation of a road by a carrier engaged in interstate commerce is employed in interstate commerce.

TRAINS USED IN INTERSTATE COMMERCE.

In *St. J. & G. I. Ry. Co.* v. *United States*, 232 Fed., 349, decided March 9, 1916, the Circuit Court of Appeals for the Eighth Circuit held that a train composed of cars loaded with material to repair the roadbed, which originated in another state and had arrived in the state in which it was to be used but had not yet arrived at its destination, was still in "interstate commerce."

CARRIAGE OF EXPLOSIVES.

In *Horn* v. *Michell*, 232 Fed., 819, decided April 27, 1916, the Circuit Court of Appeals for the First Circuit held that the federal statutes, making it unlawful to transport explosives in interstate commerce on any vessel or vehicle operated by a common carrier and carrying passengers are important regulations of commerce, designed for the protection of passengers and others and as a safeguard for the prevention of the use of instrumentalities of interstate and foreign commerce in aid of crimes which involve the use of high explosives.

3. In the District Courts.

DEMURRAGE CHARGES.

In *Horton* v. *T. & G. R. R. Co.*, 225 Fed., 406, decided October 6, 1914, the District Court for the District of Nevada held that where the rules of a car-service association, regularly filed with the Commission, prohibited agents from storing carload freight in warehouses or on ground belonging to the railroad company without adding car-service charges, the same as if the freight had been left in the car, the carrier's right to collect demurrage does not end when the shipment is unloaded, so that the car may be released for service, the rule being obligatory upon the carrier, and violations thereof constituting unlawful discriminations.

NOTICE OF LOSS.

In *Hudson* v. *C., St. P., M. & O. Ry. Co.*, 226 Fed., 38, decided June 4, 1915, the District Court for the District of Minnesota held that in an action for delay to a shipment of live stock, the bill of lading for which required as a condition precedent to recovery a notice of loss before the stock was removed from destination, where the cattle was sold within a day or two after their arrival, such sale constituted the "removal" within the meaning of the bill of lading.

CALIFORNIA LONG-AND-SHORT-HAUL CLAUSE.

In *Cal. Adjustment Co.* v. *So. Pac. Co.*, 226 Fed., 349, decided February 24, 1915, the District Court for the Northern District of California held that the United States district court is not without jurisdiction of an action against a railroad to recover excess freight charged and collected in violation of the long-and-short-haul clause of the California constitution, because the plaintiff did not apply to the state railroad commission for a reparation order.

PRIVATE CARS "IN RAILROAD SERVICE."

In *St. L., I. M. & S. Ry. Co.* v. *National Refining Co.*, 226 Fed., 357, decided June 16, 1915, the District Court for the Northern District of Ohio held that within a freight-tariff provision making subject to demurrage, charges private cars on private tracks of the owners of the cars, even when engaged in transportation of commodities produced by their owners, if they are then "in railroad service," such cars of defendant on a switch track, which under its contract with plaintiff railroad is to be considered as that of the railroad, are "in railroad service," and subject to such charges.

CLAYTON ANTITRUST ACT.

In *Elliott Machine Co.* v. *Center*, 227 Fed., 124, decided February 20, 1915, the District Court for the Western District of Michigan held that the Clayton act applied to a continuing contract, although made before its passage, as all persons entering into contracts involving interstate commerce must do so subject to the right of Congress thereafter to control, regulate, or prohibit the performance thereof.

In *Frey* v. *Cudahy Packing Co.*, 232 Fed., 640, decided April 27, 1916, the District Court for the District of Maryland held that an action may sometimes be maintained in a federal district court to recover damages for alleged price discriminations by defendant against plaintiff in violation of the Clayton act, although the Federal Trade Commission has taken no action in the premises, citing *Penn. R. R. Co.* v. *Int. Coal Co.*, 230 U. S., 184, in which it was held that the courts had jurisdiction to award damages for the discrimination therein set up, although the Interstate Commerce Commission had not acted or been asked to act.

NOTICE AS TO SUSPENDED RATES.

In *Trenton & M. C. T. Corp.* v. *Inhabitants of Trenton*, 227 Fed., 502, decided October 14, 1915, the District Court for the District of New Jersey held that the New Jersey statute, allowing the state commission to suspend proposed increases in rates for a period not exceeding three months, does not require a notice and hearing to authorize the state commission to make an order of suspension, which merely preserves the status quo.

CONFISCATORY RATES.

In *Winthrop* v. *Fellows*, 230 Fed., 702, decided January 31, 1916, the District Court for the Eastern District of Michigan held that the rule is imperative that the operation of state statutes governing railroad passenger rates should not be enjoined, unless the confiscatory character of the rate is clear; and this rule is especially applicable to injunctions before final hearing.

SWITCHING CHARGES.

In *United States* v. *Ill. C. R. R. Co.*, 230 Fed., 940, decided February 5, 1916, the District Court for the Eastern District of Louisiana held that where a carrier to relieve the congestion hauled off carloads of bananas from the ship side to some convenient team track in the same yard where the owner sold the fruit to local buyers, the movement of the cars from the wharf track to the team track was a service for which the carrier should collect charges.

AGENT'S MISTAKE.

In *A. G. S. R. R. Co.* v. *McFadden*, 232 Fed., 1000, decided May 25, 1916, the District Court for the Eastern District of Pennsylvania held that under the act to regulate commerce a shipper is liable for the rate fixed by the tariff filed, regardless of a mistake of the carrier's servant, or the fact that the shipper made prices in reliance on the rate quoted to him, for all persons are charged with notice of such rates.

COUNTERCLAIM FOR INJURIES TO GOODS.

In *Ill. C. R. R. Co.* v. *Hoopes*, 233 Fed., 135, decided May 27, 1916, the District Court for the Southern District of Iowa held that under the Elkins act, which prohibits discrimination in favor of shippers, and in view of the policy of the law as shown by rulings of the courts and the Interstate Commerce Commission, a shipper can not, on being sued by an interstate railroad company for freight charges, counterclaim for injuries to goods; as the railroad company is required to institute such suits and as it opens the door to collusion and discrimination.

INDEX.